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**RESTATED DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR M.S. HOMEOWNERS ASSOCIATION**

A Condominium Residential Development

[Cover Page]

**RESTATED DECLARATION OF
ESTABLISHMENT OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
M.S. HOMEOWNERS ASSOCIATION**

SEPTEMBER 2019

IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, GENDER INFORMATION, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (p) OF SECTION 12955, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.2 OF THE GOVERNMENT CODE. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

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**RESTATED DECLARATION FOR ESTABLISHMENT OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR
M.S. Homeowners Association
A Condominium Residential Development**

THIS RESTATED DECLARATION FOR ESTABLISHMENT OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made on the day and year hereinafter written, by M.S. Homeowners Association, a California Nonprofit Mutual Benefit Corporation ("Declarant"), with reference to the following Recitals.

RECITALS

A. Declarant is a homeowners association whose Members are the Owners of all the Condominium Units within that certain real property in the City of Palm Springs, County of Riverside, State of California, more particularly described as:

Lots 1, 2 and 3 and "A" of Tract No. 4193, in the City of Palm Springs, County of Riverside, State of California, as per map recorded in Book 67, Pages 93-94 of Maps, in the office of the County Recorder of said County, and Lots 1,2,3, and "A" and "B" of Tract 4280, as per map recorded in Book 69, Pages 32-34 of Maps, in the office of the County Recorder of said County.

(hereinafter "Property").

B. The Property was developed as a Condominium Project, as defined in Section 4125 of the California *Civil Code*, and consists of 186 Condominium Units and related Common Areas. The Owners of each Condominium Unit shall have an undivided interest as a tenant-in-common in and to the Common Area of the phase in which such Owner's Condominium is located, a separate interest in a Condominium Unit, the right to the exclusive use of any Exclusive Use Common Area appurtenant to such Owner's Unit, an appurtenant membership in the Association, and a nonexclusive easement over the Common Areas of the other phases, subject to any exclusive easements and other separate Ownership interests therein, and this Restated Declaration.

C. Ownership of the Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for M. S. Homeowners Association recorded April 3, 2003, as Instrument No. 2003-236295, and the First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for M. S. Homeowners Association recorded August 27, 2018, as Instrument No. 2018-0342910, Official Records of the County Recorder of Riverside County (hereinafter "Declaration").

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

E. Article XIII, of the Declaration ("Amendment Section") provides that it may be amended by the vote or written consent of an affirmative vote of sixty-six and two-thirds percent (66 and 2/3%) of a quorum of the voting power of the Association. For purposes of this Amendment Section only, a "quorum" means 50% plus 1 of the voting power of the Association. The undersigned President and Secretary of the Association certify that, to the best of their knowledge, the affirmative vote or written consent of at least the required percentage of Association Members has been obtained.

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

ARTICLE 1 — DEFINITIONS

1.1 **"Association"** and **"Declarant"** means M.S. Homeowners Association, a *California Nonprofit Mutual Benefit Corporation*, consisting of all owners of condominiums in the project, created for the purpose of managing a common interest development.

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

1.3 **"Bylaws"** means the existing Bylaws of the Association or, if adopted by the membership, the Restated Bylaws of the Association, as well as any duly adopted amendments thereto, which are incorporated herein by reference.

1.4 **"Carport Space"** shall be a space designated for the exclusive use of the Unit. Each Carport Space is assigned to a specific location and is designated by a number that corresponds to the Unit number of the building at issue. For example the Unit located at xxx Montecito Drive Unit 5, would have exclusive use of Carport Space #5. The bank of Carport Spaces are at the back of each building and are numbered in series to reflect the corresponding Unit number.

1.5 **"Common Area"** means the entire Property except all Units as defined in Section 1.22.

1.6 **"Condominium"** means an estate in real property consisting of a separate fee simple interest in a Unit, the Patio, a Carport if so designated on the Condominium Plan as appurtenant to a Unit, the boundaries of which are shown and described on the Condominium Plan, a fractional undivided interest as a tenant-in-common in the Common Area of the respective phase of the Project in which the Unit is located, a nonexclusive easement over the Common Area of the other phases of the Project, a membership in the Association, and any Exclusive Use Common Area appurtenant to each Unit, as shown on the Condominium Plan, deed of conveyance, or as referred to in this Restated Declaration.

1.7 **"Condominium Plan(s)"** means those certain condominium plans which apply to particular phases within the Project. All of the above documents are of Official Records of the County Recorder of Riverside County. Condominium Plan shall include any amendments to the above documents.

1.8 **"Eligible Mortgagee"** means a holder, insurer or guarantor of a First Mortgage that provides a written request to the Association stating the name and address of such holder, insurer or guarantor and the Unit number, and requesting notice to which such Eligible Mortgagee is due under the Governing Documents.

1.9 **"Exclusive Use Common Area"** means those portions of the Common Area designated herein for the exclusive use of one Owner of the separate interests and which is appurtenant to a Unit as shown on the Condominium Plan, deed of conveyance, and/or pursuant to the provisions herein. "Exclusive Use Common Areas" and "Restricted Common Areas" shall have the same meaning and shall consist of a Carport Space, patio wall enclosures, slabs, all lighting and light fixtures in front entry and courtyard areas, and any shutters, doorsteps, stoops, exterior doors, door frames, and hardware incident thereto,

screens and windows and other fixtures, and all utility lines, pipes, conduits and wiring designed to serve a Unit but located outside the boundaries of the Unit.

1.10 **"Governing Documents"** means this Restated Declaration and any other documents such as the Articles, Bylaws, Architectural Guidelines, Condominium Plan, Rules and Regulations, and/or Enforcement Procedures which govern the operation of the Association.

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

1.12 **"Mortgage"** means a mortgage or deed of trust encumbering a Condominium or any other portion of the Project. **"First Mortgage"** means a mortgage that has priority over all other mortgages encumbering the same Condominium or other portions of the Project.

1.13 **"Mortgagee"** means a Person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantors or insurer of a mortgage. **"Institutional Mortgagee"** means a mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA). **"First Mortgagee"** means a mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Condominium or other portions of the Project. The term **"Beneficiary"** shall be synonymous with the term **"Mortgagee."**

1.14 **"Mortgagor"** means a Person who mortgages his, her, or its property to another (i.e., the maker of a mortgage), and shall include the trustor of a deed of trust. The term **"Trustor"** shall be synonymous with the term **"Mortgagor."**

1.15 **"Owner"** means the record owner(s) of a condominium, including Declarant, and any contract sellers under recorded contracts of sale. **"Owner"** shall not include any persons or entities who hold an interest in a Condominium merely as security for performance of an obligation.

1.16 **"Patio"** means that portion of a Unit designed for use as a patio area(s) and identified by the letter B & C and the Unit number as shown on the Condominium Plans.

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

1.18 **"Project"** means the common interest development which is a condominium project as described herein and on the Condominium Plan, including all improvements thereon, located within the Property.

1.19 **"Property"** means the real property described in Recital A above, which is subject to this Restated Declaration.

1.20 **"Restated Declaration"** means this Restated Declaration of Restrictions and any amendments thereto.

1.21 **"Rules and Regulations"** means any Rules and Regulations for the Association regulating the use of the Units, Exclusive Use Common Areas, Common Areas, the Project and any facilities located thereon adopted by the Board pursuant to Subsection 3.5.2 herein.

1.22 "Unit" means that portion of a Condominium that consists of a separate interest. "Unit" does not include the other elements of the Project. Each Unit shall be a separate freehold estate, as separately shown, numbered, and designated on the Condominium Plan. Each Unit consists of a living area space or spaces bounded by and contained within the interior finished surfaces of the perimeter walls, floors, ceilings, windows, and doors, including the wall coverings and floor coverings, the boundaries of which are described on the Condominium Plan. Unit shall also include a Patio.

ARTICLE 2 — THE PROPERTY

2.1 **Project Subject to Restated Declaration.** The entire Project and Property shall be subject to this Restated Declaration.

2.2 **Description of Land and Improvements; Ownership of Common Area.** The Property consists of all real property described in Recital A herein. The Common Area is owned by Owners of Units in equal undivided fractional interests. The Owners of Units shall have a nonexclusive easement over the Common Area. Such nonexclusive easements shall be subordinate to any separate Ownership interests and any exclusive easements and/or Exclusive Use Common Area appurtenant to an Owner's Unit.

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

2.4 **Prohibition Against Partition.** There shall be no judicial partition of the Project or any part of it, nor shall Declarant or any person acquiring an interest in the Project or any part of it seek any judicial partition, except upon showing that such partition is consistent with the requirements of Section 4610 of the California *Civil Code*.

2.5 **Presumption Regarding Boundaries of Units.** In interpreting deeds, declarations and plans, the existing physical boundaries of a Unit, including any Unit reconstructed in substantial accordance with the Condominium Plan and the original construction plans for the Project, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan, or this Restated Declaration. This presumption applies regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown on the Condominium Plan or described in the deed and those of the building as constructed or reconstructed. In the event a structure is partially or totally destroyed and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be appropriate rights for the maintenance of said encroachments so long as they shall exist.

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

ARTICLE 3 — ASSOCIATION

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

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

3.3 Membership Class Voting Rights. The Association shall have one voting class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents. Each Member shall be entitled to cast one (1) vote for each Unit owned, subject to the provisions set forth in the Bylaws.

3.4 Membership Meetings. Meeting of Members shall be held in accordance with Article 2 of the Bylaws.

3.5 General Powers and Authority. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject to any limitations set forth in the Governing Documents. In the event of any inconsistency between the provisions of this Restated Declaration, the Bylaws and/or the Articles of the Association, the Restated Declaration shall prevail. In the event of any inconsistency between the provisions of the Bylaws and the Articles, the Articles shall prevail. The Association may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it. Its powers shall include, but are not limited to:

3.5.1 The power to establish, fix, levy, collect, and enforce the payment of Assessments against the Owners in accordance with the procedures set forth in this Restated Declaration.

3.5.2 The power to adopt reasonable rules and regulations and Architectural Rules governing the use of the Units, the Common Area, (including establishing no parking areas in any portion of the Common Areas) any common facilities and Association owned property, and the conduct at Board and Members' meetings ("Use"), in accordance with the following:

(a) The rules and regulations may include, but are not limited to reasonable restrictions on Use by the Owners and their families, guests, employees, tenants and invitees; rules of conduct; the setting of reasonable administrative rules, fees, deposits; and the setting of reasonable hearing procedures and monetary penalties and fines in the event of a violation of any provisions of the Governing Documents, subject to Article 4.14 of the Bylaws.

(b) Except as noted in Section 3.5.2(c) below, prior to the adoption of a Rule Change, as that term is defined herein, the Board of Directors shall provide Members with written notice and an opportunity to comment on any such Rule Change. The written notice to the Owners shall include all the following information:

- (i) The text of the proposed rule change;
- (ii) A description of the purpose and effect of the proposed Rule Change;
- (iii) The deadline for submission of a comment on the proposed Rule Change;

(iv) For a period of not less than thirty (30) days following delivery of the written notice of the proposed Rule Change, the Board of Directors shall accept written comments from Owners on the proposed Rule Change; and

(v) The Board of Directors shall consider any comments received from the Owners and shall make a decision on the proposed Rule Change at a Board meeting open to the membership. A decision by the Board on whether or not to adopt the Rule Change shall not be made until after the comment submission deadline. The Board of Directors shall deliver notice of any Rule Change to every Association Member. The Notice shall set out the text of the Rule Change and state the date the Rule Change takes effect. The date the Rule Change takes effect shall not be less than fifteen (15) days after Notice of the Rule Change is delivered. For purposes of this paragraph, the term *Rule Change* shall mean an adoption, amendment or repeal of the Association's Rules and Regulations and/or Architectural Rules.

(c) Prior notice to Members is not required for the following actions of the Board, regardless of whether those actions may be construed as being a Rule Change as defined in the *Civil Code* and/or in Section 3.5.2(b): (i) any Rule Change that the Board adopts to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the Association (such "emergency rules" may be adopted and remain in effect for up to 120 days); (ii) decisions regarding maintenance of the Common Areas; (iii) a decision on a specific matter that is not intended to apply to all Members, generally; (iv) establishing the amount of an assessment; (v) adoption of a Rule Change that is required by law (if the Board has no discretion regarding the substantive effect of the Rule Change); and (vi) issuance of a document that merely repeats existing law or the governing Documents.

(d) **Members' Right to Challenge Proposed Rule Changes.** With respect solely to Rule Changes requiring prior Member notice as described in Section 3.5.2(b) above, Members owning five percent (5%) or more of the Units in the Project have the right to demand a ballot measure be distributed to the Members to reverse a proposed Rule Change, so long as the request for the ballot measure is delivered to the Association within thirty (30) days after the Members are given notice of the Rule Change. If a proper and timely demand for a ballot measure to vote to rescind a Rule Change is tendered to the Association, the Board shall establish the date and time for return of ballots by the Members consistent with its election rules.

The Rule Change can be reversed on the affirmative vote of a majority of a quorum of the Members, with each Member having one vote on the matter for each Unit owned. If the Members vote to reverse a Rule Change, the Board may not take action to readopt the Rule Change for a period of one (1) year after the date of tabulation of votes on the ballot measure to reverse the Rule Change, provided, however, that this provision is not intended to preclude the Board from adopting a different Rule Change on the same subject as the Rule Change that was successfully reversed. As soon as possible following the close of voting on any proposal to reverse a Rule Change, but not more than fifteen (15) days after the close of voting, the Board shall provide notice to each Member of the results of the Member vote by personal delivery or first-class mail.

(e) A copy of the current Rules and Regulations, if any, and all modifications, revisions and updates shall be distributed to each Owner in a manner consistent with *Civil Code* §4045 or any successor statute. Any and all Owners who provide the Association with their e-mail address hereby agree that the Association can provide Notice of Rule Changes, Notice of Adoption of Rule Changes, and a copy of all current Rules, Regulations, if any, and all modifications, revisions and updates by such e-mail address (and, to the extent California law permits any other disclosures or notices to be sent to the membership by e-mail, the Owner hereby agrees that such other additional notices or disclosures can be provided to such Owner via e-mail).

If any provision of the Rules and Regulations conflicts with any provision of this Restated Declaration, the Articles, or the Bylaws, the Restated Declaration, Articles, or Bylaws shall control to the extent of the inconsistency.

3.5.3 The right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to:

- (a) Enforcement of the Governing Documents.
- (b) Damage to the Common Area.
- (c) Damage to any Units that the Association is obligated to maintain or repair.
- (d) Damage to the Units that arises out of, or is integrally related to, damage to the Common Area or Units that the Association is obligated to maintain or repair.
- (e) Enforcement of payment of Assessments in accordance with the provisions of Section 4.11 herein.
- (f) Any other matter(s) in which the Association is a party, including, but not limited to contract disputes.

3.5.4 The right to discipline Owners for violation of any of the provisions of the Governing Documents by (i) suspending the Member's membership rights, including the Owner's voting rights and the rights and privileges to use the Common Area and/or facilities appurtenant to the Member's Unit (including services under any bulk agreement with a telecommunications provider, if any), and (ii) by imposing monetary fines, subject to the limitations set forth in Section 4.14 of the Bylaws.

3.5.5 The right and easement for its agents and employees to enter any Unit when necessary in connection with any emergency, maintenance, landscaping, inspection for compliance with the Governing Documents, and/or construction work for which the Association is responsible (provided there shall be no access to the inside of any Unit without a court order or permission of the Owner).

3.5.6 If, for any reason, an Owner fails to maintain or repair an area required to be maintained by him/her, Association shall have the authority and easement to enter into or upon the Unit for the purpose of maintaining or repairing said area upon at least twenty-four (24) hours' prior written notice to the Owner or such greater notice as may be required by any provision hereof; provided, however, that such entrance shall be permitted without any prior notice whatsoever, in the event of an emergency. This section shall not be construed to permit access inside any Unit without a court order or permission of the Owner.

3.5.7 The Board of Directors shall have the right to allow one or more Owners to exclusively use portions of the Common Area for any other reason identified within California *Civil Code* §4600 or any successor statute thereto, upon approval of a majority of a quorum of the members as well as for side and front yard patio extensions in accordance with the provisions of Section 5.3 herein.

3.5.8 The Association shall have the power to remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations in accordance with the provisions of California *Vehicle Code* Section 22658, any other powers granted to an association under California law, and any amendments thereto.

3.5.9 The Association shall have the power to assign parking spaces in the Common Areas to Owners, to pay taxes and assessments which are or could become a lien on the Common Area and/or the Association Property, or any portion thereof.

3.5.10 The Association shall have the authority to take such action, whether or not expressly authorized by this Restated Declaration, as may reasonably be necessary to enforce the governing documents of the Association.

3.5.11 The Association shall have the right and power to assign, rent or license any unassigned parking and storage spaces, if any, upon terms and conditions it deems appropriate.

3.6 Duties of the Association. In addition to the duties of the Association, its agents and employees set forth elsewhere in the Governing Documents, the Association, acting through the Board of Directors, shall be responsible for the following:

3.6.1 The Association shall provide for the maintenance and preservation of those portions of the Common Area and improvements thereon in good order and repair consistent with Article 6 herein.

3.6.2 The Association shall pay all real property taxes and assessments levied upon any portion of the Common Area not assessed to or paid by the owners.

3.6.3 The Association shall be responsible for the financial management of the Association as provided in the governing documents.

3.6.4 The Association shall operate, maintain, repair, and replace those components described in Section 6.4, or contract for the performance of that work, subject to the provisions of the Governing Documents.

3.6.5 The Association shall use the regular assessments described in Article 4 herein to, among other things, acquire and pay for goods and services for the Project, including, but not limited to:

(a) Water, sewer, refuse, electrical, telephone, gas, and other necessary utility service for the Common Area and, to the extent not separately metered and charged, for the Units, provided, however, that the Association, acting through the Board of Directors, shall have the right to enter into agreements with public utilities and/or cable service providers to provide bulk services to the Units.

(b) The insurance policies described herein.

(c) The services of any personnel that the Board determines are necessary or proper for the operation and security of the Project, of the Common Area and the Association.

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

3.6.6 The Association shall maintain such areas adjacent to the Project as the Board of Directors shall determine from time to time to be desirable in order to enhance the appearance of the Project or as may be required from time to time by the City of Palm Springs or other applicable governmental agency.

3.7 Board of Directors. The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in Article 4 of the Bylaws.

3.8 Inspection of Accounting Books and Records. The rights of Owners and Directors to obtain and inspect the accounting books and records of the Association shall be in accordance with Article 7 of the Bylaws, governing the duty of the Association to maintain certain accounting books and records and the rights of Owners and Directors to obtain and inspect those accounting books and records.

ARTICLE 4 — ASSESSMENTS AND COLLECTION PROCEDURES

4.1 **Covenant to Pay.** Each Owner by acceptance of the deed to the Owner's Condominium is deemed to covenant and agree to pay to the Association regular, special and individual assessments, and all other charges duly levied by the Association pursuant to the provisions of this Restated Declaration. A regular, special or individual assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall also be a personal debt of the Owner of the Condominium at the time the assessment or other sums are levied. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Area or abandonment of the Owner's Condominium.

4.2 **Purpose of Assessments.** Except as provided herein, the Association shall levy regular, special, reimbursement and enforcement assessments sufficient to perform its obligations. The assessments levied by the Association shall be used exclusively to promote the recreation and welfare of the Owners, and for the operation, replacement, improvement, and maintenance of the Project, and to discharge any other obligations of the Association under this Restated Declaration.

4.3 **Regular Assessments.** Concurrently with preparation of the financial documents and budget as required in Article 4.12 of the Bylaws, the Board shall estimate the net charges to be paid during that next fiscal year, including a reasonable provision for contingencies, replacements and reserves, with adjustments made for any expected income and surplus or deficit from the prior year's fund. The resulting amount shall constitute the regular assessments for the budgeted year. Regular assessments shall be allocated among, assessed against and charged to the Owners on an equal basis and shall be borne by the Owners in equal shares (hereinafter "Regular Assessment"). Failure of the Board to estimate the net charges within the time period stated herein shall not void any assessment imposed by the Board. Regular assessments for fractions of any month shall be prorated. Each Owner is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.

4.4 **Special Assessments.** If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Area, or any other reason, it shall make a special assessment for the additional amount needed, subject to any limitations imposed by law or the Governing Documents. Special Assessments shall be allocated among, assessed against, and charged to the Owners on an equal basis and shall be borne by the Owners in equal shares (hereinafter "Special Assessments").

4.5 **Reimbursement Assessments.** Subject to the limitations of the Governing Documents and in addition to regular and special assessments, the Board may levy reimbursement assessments against Owners and Units in accordance with the following:

4.5.1 The Board may levy a reimbursement assessment whenever the Association (i) performs any service or accomplishes any item of repair or maintenance which is the duty of any Owner to accomplish, but which has not been accomplished by such Owner, or (ii) incurs any costs which by law or as required by the Governing Documents must be reimbursed by an Owner. Such reimbursement assessment shall include the cost thereof, together with any financing costs and administrative costs incurred by the Association. Prior to levying such a reimbursement assessment, the Board shall provide the Owner with notice and a hearing in accordance with Section 4.14 of the Bylaws. The notice and hearing regarding the levy of an individual assessment may be combined with the notice and hearing regarding the underlying violation.

4.5.2 Duly levied reimbursement assessments shall be subject to the provisions in the Governing Documents regarding costs, late charges and interest for delinquent payment, and may become a lien on the Unit. Except as specifically prohibited by law, it is the intent of this Restated Declaration that reimbursement assessments (including without limitation those imposed to recover late payment penalties or to reimburse the Association for the cost of repairing damage to the Common Areas or Association Property for which the assessed Member is responsible), if not paid prior to delinquency, may be collected either in an action at law or by resort to the lien and foreclosure remedies set forth in Section 4.11 below.

4.6 Enforcement Assessments. The Board of Directors may levy, subject to the limitations of the Governing Documents, enforcement assessments against an Owner and his/her/its Unit for failure to comply with the Governing Documents. Enforcement Assessments can include all costs, including attorney's fees, incurred by the Association to bring an Owner (and/or his/her/its residence, tenants, occupants and guests) into compliance with the Governing Documents. In the event the Board of Directors imposes an enforcement assessment, that enforcement assessment shall be subject to costs, late charges and interest as described in Section 4.10 for delinquent payment. Enforcement Assessments imposed to recover monetary penalties for failure of a Member to comply with the Governing Documents may become a lien against the Member's Unit that is subject to foreclosure pursuant to Section 4.11 unless such lien and foreclosure remedies are prohibited by law.

4.7 Limitations on Assessments. Except in emergency situations, the Board may not, without the approval of Owners constituting a quorum of the Owners and casting a majority of the votes through a ballot measure conducted in accordance with *Civil Code* §5115 or any successor statute, impose a regular assessment per Unit that is more than twenty percent (20%) greater than the regular assessment for the preceding fiscal year, or levy special assessments that in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. For purposes of this Section, a "quorum" means more than fifty percent (50%) of the Owners of the Association. These limitations shall not apply to assessment increases that are necessary for emergency situations. An emergency situation is an extraordinary expense that is:

4.7.1 Required by a court order.

4.7.2 Necessary to repair or maintain the Project or any part of it for which the Association is responsible when a threat to personal safety in the Project is discovered.

4.7.3 Necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the annual budget report. Before the Board may impose or collect an assessment in this emergency situation, it shall pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Owners with the notice of assessment.

4.8 Owner Notice of Assessments. The Association shall provide notice by individual notice to the Owners of any increase in the regular assessments or the imposition of a special assessment not less than thirty (30) nor more than sixty (60) days prior to the increase in the regular assessment or special assessment becoming due.

4.9 Limitation on Assessment Increases. Any annual increases in regular assessments for any fiscal year, as authorized by Section 4.7, above, shall not be imposed until the Board has sent out the annual budget report in accordance with Section 5300 of the California *Civil Code* with respect to that fiscal year, or has obtained the approval of Owners, constituting a quorum, casting a majority of the votes at an election of the Association conducted in accordance with *Civil Code* §5115 or any successor statute. For the purposes of this Section, "quorum" means more than fifty percent (50%) of the Owners of the Association.

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

4.10.1 Reasonable costs incurred in collecting the delinquent assessment, including actual attorneys' fees.

4.10.2 A late charge not exceeding ten percent (10%) of the delinquent assessment or ten dollars (\$10.00), whichever is greater, or the maximum amount allowed by law.

4.10.3 Interest on the foregoing sums, at an annual percentage rate of twelve percent (12%) commencing thirty (30) days after the assessment becomes due. No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. The amounts delinquent, including the entire unpaid balance and any related costs described herein, may be collected by the Association as provided in Section 4.11 hereinbelow.

4.11 Enforcement of Assessments and Late Charges. Unless California law provides otherwise, a delinquent regular, special or reimbursement and/or enforcement assessment and any related late charges, reasonable costs of collection (including actual attorneys' fees), penalties, and interest assessed in accordance with this Article shall become a lien upon the Condominium when a Notice of Assessment Lien is duly recorded as provided in Section 5675 of the California *Civil Code* or applicable statute. The Notice of Assessment Lien shall describe the amount of the delinquent assessment or installment, the related charges authorized by this Restated Declaration, a description of the Condominium, the name of the purported Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice may be signed by any officer or governor of the Association, or any attorney, employee or agent of the Association authorized to do so by the Board.

The Notice of Assessment Lien may not be recorded until thirty (30) calendar days after the Association has mailed a written demand for payment to the delinquent Owner in accordance with California law. If the delinquent assessment or installment and related charges are paid or otherwise satisfied in accordance with the demand for payment, the Association shall not record the Notice of Assessment Lien.

Any lien described herein may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure subject to the limitations contained in California *Civil Code*, Sections 5720 and 5705 or any successor statute(s) thereto. Any nonjudicial foreclosure shall be conducted by the trustee named in the Notice or by a trustee substituted pursuant to Section 2934(a) of the California *Civil Code*, in accordance with the provisions of Sections 2924, 2924(b), and 2924(c) of the California *Civil Code*.

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

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

4.12 Priority of Assessment Lien. As set forth hereinbelow, the assessment lien referred to in Section 4.11 shall be superior to all other liens, except (i) all taxes, bonds and governmental assessments which, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record. Notwithstanding any other provision to the contrary, the following provisions shall govern the priority and obligation for payment of the assessment lien:

4.12.1 Only the judicial or non-judicial foreclosure of the First Mortgage shall operate to transfer title free of the assessment lien or obligation for any assessment lien, and then only as to payments which became due prior to the date of sale, and excluding those assessment liens recorded prior to the recording of the First Mortgage.

4.12.2 Should any person or entity other than a First Mortgagee foreclose on a Condominium, the new Owner shall be personally liable for all unpaid assessments whether or not a lien has been recorded if such new Owner expressly assumed such personal liability. In the event the new Owner assumes such liability, the Association may elect to collect such unpaid assessments, including late charges, interest and other costs, from the new Owner, either personally or against the Condominium, upon the transfer of title.

4.12.3 Neither the transfer of a Condominium pursuant to a foreclosure of any Mortgage, nor an election by the Association to proceed against any new Owner for payment, shall serve to cancel the personal obligation of the prior Owner for payment of the delinquent assessments and charges which accrued during such Owner's period of Ownership. The personal obligation of any Owner for payment of delinquent assessments and charges may only be satisfied, and therefore discharged, by payment of the entire amount of the delinquent assessments and charges, whether or not such Owner remains in possession of his/her/its Unit.

4.12.4 No sale or transfer of any Condominium shall relieve such Condominium or its new Owner from liability for any future assessments which accrue during such Owner's period of Ownership.

4.13 Statement of Delinquent Assessment. The Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Condominium. Association shall have the right to charge a reasonable fee for such statement.

ARTICLE 5 — USE RESTRICTIONS AND COVENANTS

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

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

5.2.1 The Association shall have an easement in, to, and throughout the Common Area and the improvements thereon to perform its duties and exercise its powers.

5.2.2 Except as provided in this Restated Declaration, there shall be no judicial partition of the Common Area, nor shall Declarant or any person acquiring an interest in all or any part of the Project seek any judicial partition.

5.2.3 Subject to the provisions of the governing documents, each Owner has non-exclusive rights of ingress, egress, and support through the Common Area. These rights shall be appurtenant to any deed of conveyance. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right to use an area and/or any Exclusive Use Common Area appurtenant to a Unit.

5.2.4 The Owner's rights of use and enjoyment of the Common Area shall be subject to the restrictions set forth in the Governing Documents, and the right of the Association, subject to the limitations of any laws or the Governing Documents, to:

(a) Adopt and enforce reasonable rules and regulations for the use of the Common Area and the Project.

(b) Reasonably limit the number of persons using the Common Area.

(c) Assign or otherwise control the use of any Carport or unassigned parking spaces within the Common Area.

(d) Remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations of the Board in accordance with the provisions of California *Vehicle Code* Section 22658, any California law, and any amendments thereto.

(e) Suspend the voting rights of any Owner, cable television service to a Unit (but only if the Association has entered into a bulk cable agreement for the Property), and the rights of any Owner, and the Persons deriving rights from any Owner, to use and enjoy the Common Area for any period during which the Owner is delinquent in the payment of any Assessment, fine or monetary penalty, or as otherwise provided in the Governing Documents. Additionally, for violations of the governing documents, the Association has the right to require minor children to be accompanied by an adult whenever they utilize the Association's Common Area recreational amenities for a period not to exceed one year.

(f) Cause the construction of additional improvements in the Common Area, or to cause the alteration or removal of existing improvements on the Common Area.

(g) Reasonably restrict access to roofs and other maintenance areas of a Residential Unit that the Association is obligated to maintain.

(h) Approve any proposed alteration of or modification to the Common Area, or the exterior of any Unit.

5.2.5 The Association may grant to third parties easements in, on and over the Common Area for the purpose of constructing, installing, or maintaining necessary utilities and services, or other purposes reasonably related to the operation of the Project, and each Owner, in accepting his/her/its deed to the Unit, expressly consents to these easements. However, no such easement may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his/her/its Unit.

5.2.6 Notwithstanding the easement rights or other rights contained herein, an Owner who has sold his/her/its Condominium to a contract purchaser or who has leased or rented the Condominium shall be deemed to have delegated his/her/its rights to use and enjoy the Common Area to the contract purchaser or tenant who resides in the Owner's Condominium, subject to reasonable regulation by the Board.

5.2.7 All utilities designed to serve one Unit, but located outside the boundaries of said Unit, are allocated exclusively to that particular Unit. The Owner of said Unit shall be entitled to reasonable access to the Common Area for the purpose of maintaining these utilities, subject to the Exhibit A "Allocation of Maintenance Responsibilities," and further subject to the consent of the Association and to any other conditions reasonably imposed by the Association. The Association's consent shall not be unreasonably withheld.

5.2.8 The Board of Directors shall have the right to allow one or more owners to exclusively use portions of the Common Area for any other reason identified within California *Civil Code* §4600 or any successor statute thereto, upon approval of a majority of a quorum of the members as well as for side and front yard patio extensions in accordance with the provisions of Section 5.3 herein.

5.3 Granting Easements and License

(i) The Board of Directors shall have the authority to grant exclusive use easements over the Common Area for side and front yard patio extensions, consistent with the criteria enumerated below ("Board Authority"). The Board's Authority has been voted on and approved by an affirmative vote of 66 2/3rds% of a quorum of the voting power of the Association and, therefore, such exclusive use easements over portions of the Common Area for side and front yard patio extensions will require a zero percent (0%) further vote of the Owners. The criteria for such exclusive use easements over the Common Area are identified as follows:

(1) Notwithstanding any non-exclusive easement rights to the Common Area granted herein or by any deed or other conveyance, for Owners desiring side and front yard patio extensions into the Common Area, the Board of Directors shall have the authority consistent with any Architectural and Landscape guidelines approved by the Board of Directors from time to time ("Easement Area").

(2) The Owners of the Units receiving the benefit of the easements ("Easement(s)") are solely responsible for the maintenance, repair and replacement of any improvements located within their respective Easement Area and, further, said Owner and their successors and assigns ("Easement Owner") shall and do hereby indemnify and agree to hold harmless the Association as well as past, present and future directors, officers, volunteers, employees or agents of the Association against any and all liabilities, claims or judgments (including reasonable attorneys' fees and costs incurred in defending any such claim(s)) brought related to the use, maintenance and/or repair of the Easement Area or any improvement thereon by a third party and/or the Easement Owner. Except for the reimbursement to the Association for any and all costs incurred by the Association for the preparation of an Architectural Improvement Agreement/Exclusive Use Easement, there shall be no monetary consideration required to be paid by the Easement Owner to the Association for the Easement Area and the Easement Owner shall not be required to provide any insurance coverage to the Association for the exclusive use of the Easement Area (as defined below) and any and all grants of such Easements must be recorded in the Riverside County Recorder's Office to be effective.

(ii) Notwithstanding any non-exclusive easement rights to the Common Area granted herein or by any deed or other conveyance, any patio extensions that encroach into the Common Area (that existed as of January 1, 2019 and may or may not have been approved by the Association) are hereby grandfathered and granted, retroactively, exclusive use easements over those portions of the Common Area where such patio extensions are located ("Easement Area(s)") provided that the Owners of the Units receiving the benefit of the Easements are solely responsible for the maintenance, repair and replacement of any improvements located within their respective Easement Area and, further, said Easement Owner and their successors and assigns shall and do hereby indemnify and agree to hold harmless the Association as well as past, present and future directors, officers, volunteers, employees or agents of the Association against any and all liabilities, claims or judgments (including reasonable attorneys' fees and costs incurred in defending any such claim(s)) brought related to the use, maintenance and/or repair of the Easement Area or any improvement thereon by a third party and/or the Easement Owner. Additionally, there shall be no monetary

consideration required to be paid by the Easement Owner to the Association for the Easement Area and the Easement Owner shall not be required to provide any insurance coverage to the Association for the exclusive use of the Easement Area. The Easements granted to the Easement Owners as set forth in this subsection (ii) are granted by the Association pursuant to a membership vote amending the First Restated Declaration of Covenants, Conditions and Restrictions and not by any action of the Board of Directors.

5.4 General Restrictions on Use. In exercising the right to occupy or use a Unit or the Common Area and its improvements, the Owner and the Owner's family, guests, employees, tenants, and invitees:

5.4.1 Shall not attempt to further subdivide a Unit without obtaining the prior approval of the Association.

5.4.2 Except as permitted in Section 5.5, shall not occupy or use a Unit, or permit all or any part of a Unit to be occupied or used, without Board approval, for any purpose other than as a single family residence.

5.4.3 Shall not permit anything to obstruct the Common Area or store anything on the Common Area without the prior written consent of the Board, except as otherwise provided in the Governing Documents.

5.4.4 Shall not perform any act or keep anything on or in any Unit or in the Common Area that will increase the rate of insurance for the Project without the Board's prior written consent. Further, no Owner shall permit anything to be done or kept in his/her/its Unit or in the Common Area that would result in the cancellation of insurance on any Unit or on any part of the Common Area or that would violate any law.

5.4.5 Shall not disconnect, damage, tamper with or otherwise modify any protection system, including, but not limited to fire sprinklers, fire alarms and fuse boxes.

5.4.6 Shall not store gasoline, kerosene, cleaning solvents, or other flammable liquids or substances, or any toxic or hazardous materials on the Common Area or in any Unit, provided, however, that reasonable amounts of these liquids, substances or materials may be placed in appropriate containers and properly stored. All rubbish, trash, and garbage shall be regularly removed from the Unit consistent with the Association's Rules and Regulations, and shall not be allowed to accumulate anywhere within the Project.

5.4.7 Firepits that use propane tanks are permitted in accordance with the Association's Rules and Regulations and Architectural Guidelines adopted by the Association from time to time. Firepits that use wood burning or any other organic materials (such as wood or charcoal) are prohibited. BBQ's are permitted in accordance with the Association's rules and regulations adopted from time to time by the Board of Directors.

5.4.8 Shall not erect or display any for sale/for lease sign on or from any Unit except as allowed by Sections 712 and 713 of the California *Civil Code*. Shall not erect or display any sign on the Common Area, Unit, and/or Exclusive Use Common Area, except as permitted in the Rules and Regulations and/or required by California law.

5.4.9 Except as otherwise permitted by federal or state law, shall not erect or display any radio or television antenna, satellite dish or other equipment or apparatus for transmitting or receiving transmissions which is visible from any street, Unit, or the Common Area, unless otherwise permitted by the Architectural Committee of the Association.

5.4.10 Shall not keep animals, reptiles, rodents, birds, fish, livestock or poultry within any Unit or elsewhere within the Project, except that domesticated dogs, cats, aquatic animals kept within an aquarium and birds inside bird cages may be kept as household pets within any Unit, if they are confined or kept on leash and not kept, bred or raised for commercial purposes or in unreasonable quantities. As used in this Restated Declaration, "unreasonable quantities" shall be deemed to limit the total number of all dogs, cats and birds to three (3) per Unit. The Board can prohibit the keeping of any pet or other animal that, in the sole and exclusive opinion of the Board, constitutes a nuisance to any other Owner in the sole and exclusive opinion of the Board and any decision rendered by the Board shall be enforceable as other restrictions contained herein. Each person bringing, keeping or permitting another person to bring or keep a pet or other animal upon the Project shall be liable to the other Owners, their family members, guests, invitees for any damage to persons or property proximately caused by the pet brought upon or kept upon the Project. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Restated Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet or other animal. Unless approved by the Board, no structures for the care, housing or confinement of pet or other animal in any Unit shall be maintained so as to be visible from a neighboring Unit. No pets or other animals shall be permitted upon the Common Area except as controlled on a leash or similar device held by its Owner or his agent. No pet or other animal shall be left chained or otherwise tethered outdoors within a Unit or in the Common Area. Pet or other animal Owners shall be responsible for the prompt removal and disposal of animal wastes deposited by their animals in the Project. Each person bringing or keeping a pet or other animal within the Project shall be solely responsible for the conduct of the Owner's pet or other animal.

5.4.11 Shall not engage in any illegal, noxious or offensive activity in any part of the Project, or do any act which unreasonably threatens the health, safety and welfare of other residents of the Project.

5.4.12 Shall not alter, attach, construct, or remove anything on or from the Common Area, except upon the written consent of the Board.

5.4.13 Shall not keep or maintain any fixture, personal property or other object upon any courtyard or patio which interferes with the quiet enjoyment of adjacent Units, courtyards or patios, and/or which may be in violation of any Rules duly adopted by the Board.

5.4.14 Shall not conduct, maintain, or permit on any part of the Project any industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational, or otherwise, except for home occupation use in compliance with this Restated Declaration and in particular, Section 5.5.

5.4.15 Shall not permit windows be covered in whole or in part with paper, newspaper, aluminum foil, or other materials not specifically intended for such purpose.

5.4.16 Shall not allow his/her/its unit to be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time-sharing agreement, plan, program, or arrangement, including, without limitation, any so-called "vacation license," "travel club," "extended vacation," or other membership or time-interval ownership arrangement. The term "time-sharing" as used herein shall be deemed to include, but shall not be limited to: any time-share project, time-share estate, and/or time-share use (as those terms are defined under *Business and Professions Code* §11003.5 or any successor statute thereto); any qualified resort vacation club (as those terms are used under *Business and Professions Code* §10260, *et seq.*); or any agreement, plan, program or arrangement under which the right to, use, occupy, or possess the Unit in the Project rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like-kind use privileges, according to a fixed or floating interval or period of time; provided, this section shall not be construed to limit the personal use of any Unit in the Project by any Owner or his/her/its social or familial guests or his tenants under leases created in accordance with this Restated Declaration.

5.5 Home Occupation. Owner or his/her/its tenant may operate a business within the Unit (hereinafter "home occupation"), provided that the home occupation is specifically limited to the use of the Unit through the means of telephone, internet and reasonable mail as described below and for no other purpose. Any activity conducted in compliance with Owner's home occupation shall not be visible from the exterior of the Unit, through any modification to the Unit, or through the operation of any business activity.

5.5.1 All home occupations shall comply with the Rules and Regulations adopted by the Board of Directors, but shall include at a minimum the following:

- (a) All employees shall be members of the resident family and shall reside on the premises;
- (b) There shall be no direct sales of products or merchandise;
- (c) There shall be no displays, inordinate amount of delivery of mail or merchandise;
- (d) There shall be no advertising (including in any telephone book or website) which identifies the home occupation by street address;
- (e) Pedestrian and vehicular traffic will be limited to that normally associated with residential districts;
- (f) The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses;
- (g) There shall be no outdoor storage of materials or equipment, nor shall merchandise be visible from outside the home;
- (h) The home occupation shall be confined within the main building of the Unit; Carport Spaces shall not be used for home occupation;
- (i) The home occupation shall not be visible from the street or any other Unit;
- (j) No use shall create or cause noise, dust, vibration, odor, smoke, glare, or electrical interference or other hazards or nuisances; and
- (k) Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.

5.5.2 A home occupation approval may be prohibited upon thirty (30) days' written notice by the Association if a majority of the Board of Directors, at its discretion, determine any one of the following findings can be made:

- (a) That the use has become detrimental to the quiet enjoyment of any homeowner within the Project and/or constitutes a nuisance;
- (b) That the use has become detrimental to the Association and/or any homeowner based on any health or safety concern;
- (c) That the home occupation is generating pedestrian or vehicular traffic and/or parking concerns;

(d) That the applicant is advertising the home occupation by identification of the street address either in a telephone book or any other form; or

(e) That the use is in violation of any statute, ordinance, law or regulation.

5.6 Leases.

5.6.1 All leases or rentals must be for the entire Unit and not merely parts thereof.

5.6.2 All leases or rentals shall be subject in all respects to the Governing Documents, and shall provide that failure to comply with the requirements of the Governing Documents shall constitute a default under the lease which may be cured by eviction of the tenant either by the Owner or the Association.

5.6.3 An Owner who leases or rents his/her/its Unit shall promptly notify the Association in writing of the names of all tenants and members of a tenant's family occupying such Unit.

5.6.4 All Owners leasing or renting their Unit shall promptly notify the Association of the address and telephone number where such Owner can be reached.

5.6.5 If the leasing or renting of the Unit is for less than thirty (30) days, the Owner must comply with the applicable City of Palm Springs ordinance related to short term rentals.

5.6.6 Each Owner assigns to the Association, absolutely and regardless of possession of the property, all money now due or to become due under any agreement for the use or occupation of any part of any Unit, now existing or hereafter made, for the purpose of collecting all Assessments and costs and expenses due to the Association which are delinquent. The Association confers on each Owner the authority to collect and retain money due under any agreement for the use or occupation of any part of any Unit, provided that the Association may revoke the authority at any time, by written notice, of a default in the payment of any Assessments. Upon revocation the Association may collect and retain the money until the delinquent Assessments and related charges are satisfied, whether the money is past due and unpaid or current. The Association's rights under this provision are subordinate to the rights of any first mortgagee. The Association retains the right to require the Owner to evict any tenant for failure to comply with the Governing Documents.

5.7 **Unit Modification.** Subject to other applicable restrictions contained in the Governing Documents, Owners may modify their Units subject to the following:

5.7.1 Modifications or alterations of the exterior of any Unit must have the prior written consent of the Board, including any modifications to facilitate handicapped access as provided by Section 4760 of the California *Civil Code*. Any approval of such handicapped access modification may be conditioned on such modification's removal, by the Owner at his/her/its sole expense, once the handicapped access is no longer necessary for the Unit.

5.7.2 No Owner may install any shutter, screen or other appurtenance in or on any window or door (which can be seen from the exterior of the Unit) except those items which are in conformance with the Architectural Rules.

5.7.3 No Owner may enclose and/or alter his/her/its Unit's patio and/or courtyard without the prior written consent of the Board.

5.7.4 No Owner shall store anything that would inhibit the ability of the Association to access the roof system of the Unit.

5.7.5 Except as provided by the Governing Documents, Owners shall not have the right to paint, decorate, remodel or alter any Exclusive Use Common Area or the Common Area without the prior written consent of the Board.

5.8 Damage Liability. Each Owner shall be liable to the Association for any damage to the Common Area or to Association owned property if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installment or maintenance of any improvement by the Owner or the Owner's family, guests, tenants, contract purchasers, or invitees. In the case of joint Ownership of a Condominium, the liability of the co-owners shall be joint and several, unless the co-owners and the Association have agreed in writing to an alternative allocation of liability.

5.9 Parking and Vehicle Restrictions. The Board of Directors shall have the right to promulgate rules and regulations related to use of vehicles and vehicle parking as it deems necessary from time to time. Unless otherwise expressly permitted by the Board:

5.9.1 Only "conventional passenger vehicles" are permitted to park within the Property. Except for temporary parking as defined in this Section, no commercial vehicles shall be permitted to remain within any area of the Property, including, without limitation, streets, Common Area, or the Unit's Carport Space. The Association shall have the power, but not the obligation, to have any vehicle which is parked in violation of the Association's Governing Documents towed from the Property at the expense of the owner of such vehicle.

5.9.2 Camping and/or overnight living in any recreational vehicle, commercial vehicle, conventional passenger vehicle, truck, boat, trailer, van and/or Carport Space is strictly prohibited.

5.9.3 Recreational vehicles and boats owned or rented by an Owner or tenant may be parked for the sole purpose of loading and/or unloading such recreational vehicle or boat immediately prior to or after the use of such recreational vehicle or boat for recreational purposes, subject to time limitations and other rules and regulations established from time to time by the Board of Directors.

5.9.4 Except for temporary parking or as otherwise provided in this Section 5.9, in order to maintain the aesthetic environment of the Property as well as life safety issues, no conventional passenger vehicle, or any other motorized vehicle of an Owner, Tenant and/or other residents may be parked upon any street within the Property. Vehicles of all Owners, their guests and invitees shall be kept in Carport Spaces and designated parking areas; provided, however, this Section shall not be construed to permit the parking in the above described areas of any vehicle whose parking in the Property is otherwise prohibited or the parking of any inoperable vehicle. Except as approved by the Board of Directors (or the managing agent), no vehicle may be parked in the guest parking area for more than seventy-two (72) consecutive hours.

5.9.5 No conventional passenger vehicle, recreational vehicle or equipment or commercial vehicle or any other motorized vehicle may be dismantled, rebuilt, repaired, abandoned, disabled, serviced or repainted within the Property. The foregoing restrictions shall not be deemed to prevent temporary parking for loading or unloading of vehicles or washing and polishing and those activities normally incident to washing and polishing of vehicles. Inoperable and/or that do not have current registration in California or if applicable, another state, vehicles shall not be parked on or within the Property.

5.9.6 There shall be no loud noises or noxious odors from motor vehicles (including motorcycles, off-road vehicles, conventional passenger vehicle or commercial vehicles), which may unreasonably interfere with the quiet enjoyment of the Property.

5.9.7 As used in this Section, "conventional passenger vehicles" shall be defined to be station wagons, family sedans, compacts, sport utility vehicles, subcompacts, and similar passenger vehicles, as well as pick-up trucks having a manufacturer's rating or payload capacity of 1.5 ton or less, and passenger vans designed to accommodate eight (8) or fewer people.

5.9.8 As used in this Section, "recreational vehicles" shall include without limitation, trailers, boats, campers, trailer coaches, buses, house camp cars, motor homes, or any other similar type of equipment or vehicle.

5.9.9 As used in this Section, "commercial vehicle" shall be defined as a truck having a manufacturer's rating or payload capacity of greater than 1.5 ton, passenger vans designed to accommodate nine (9) or more people, and/or any vehicle with a sign displayed on any part thereof advertising any kind of business or on which trucks, materials, and/or tools are visible, or with a body type normally employed as a business vehicle whether or not a sign is displayed on any part thereof. The type of motor vehicle license plate shall not be material to the foregoing definition.

5.9.10 "Temporary parking" shall mean parking for a short period of time for the purposes of furnishing services to an Owner or for loading and unloading purposes related to the Owner(s)' Unit. Temporary parking shall only be permitted during normal business and construction hours as may be identified by the Association from time to time. There shall be no temporary parking overnight within any portion of the Property.

5.9.11 The Board may adopt rules for the regulation of the admission of vehicles (including but not limited to motorcycles, mopeds, motor scooters, golf carts and other motorized vehicles with less than four wheels) and parking of vehicles within the Property, including the assessment of charges to Owners who violate or whose invitees violate, such rules. Any charges so assessed shall be Enforcement Assessments.

5.9.12 Carport Space shall be used for parking purposes only and shall not be converted to any other use.

5.9.13 Streets shall be used for ingress and egress as well as temporary parking only. This section shall not apply to Association vendor staff while providing services to the Property.

5.10 **Rights of Disabled.** Subject to Board approval, each Owner may modify his/her/its Unit and the route leading to the entrance of his/her/its Unit, at /her/its sole expense to facilitate access to his/her/its Unit by persons who are blind, visually impaired, deaf or physically disabled or to alter conditions which could be hazardous to such persons, in accordance with California *Civil Code* Section 4760 or any other applicable law.

ARTICLE 6 — REPAIR AND MAINTENANCE

6.1 **General.** The Association and all Owners have a shared responsibility to fulfill the maintenance requirements imposed by the Governing Documents. For purposes of this Article, "maintenance" shall include without limitation, painting, weatherproofing and cleaning to keep a clean, safe and sanitary condition necessary to preserve the attractive appearance of each Unit and the Project and protect the values thereof. The Board shall have the power to determine the standards of such maintenance. Attached hereto as Exhibit A-1 Matrix, and incorporated herein by reference, is a listing of the allocation of responsibility for maintenance, repair and replacement of the various components in the Project. Provided any item is not listed in Exhibit A-1, the responsibility for its maintenance shall be determined in accordance with the provisions of this Article and, if no such allocation is made by this Article, then as otherwise provided by statute or law. Except as otherwise provided in the Governing Documents, the costs of maintenance, repair and replacement shall be borne by the party responsible for the maintenance as allocated in Exhibits A & A-1 herein.

6.2 Failure to Maintain. In the event an Owner fails to maintain the areas (required to be maintained by the Owner as described herein) pursuant to the standards set by the Board, the Board may notify the Owner of the work required and request that the same be done within a reasonable time from the giving of such Notice. In the event the Owner fails to carry out such maintenance within said time period, the Board may, following notice and a hearing, cause such work to be done and the cost thereof shall immediately be paid by such Owner to the Association and until paid shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law).

6.3 Maintenance by Owner. Each Owner shall be responsible for the maintenance, repair and replacement of those items allocated to the Owners pursuant to the Exhibits A and A-1 or, if there is no such allocation in the Exhibits A and A-1, all portions of the Unit as well as the Exclusive Use Common Areas (as those terms are defined under this Restated Declaration or under California law) in a clean manner, consistent with the surrounding properties, and to ensure that such area does not pose a threat to the health, safety or welfare of other Owners. The replacement of exterior items shall be subject to the requirements of Article 7 herein. If Owner fails to maintain any of the items allocated within Exhibits A and A-1 to Owner which causes damage to any portion of the Common Area, Exclusive Use Common Area, or any Unit, the Owner shall be responsible for all costs incurred by the Association for such repair. Such costs may be charged to the Owner as a Reimbursement Assessment.

6.4 Maintenance by Association. The Association shall be responsible for the maintenance, repair and replacement of those items allocated to the Association pursuant to Exhibits A and A-1, or, if there is no such allocation in the Exhibits A and A-1, all Common Area items which do not constitute Exclusive Use Common Area under this Restated Declaration or under California law, including the following:

6.4.1 All Association amenities, including the clubhouse, tennis courts, all pools, spa, and related facilities.

6.4.2 Except for landscaping located within the Exclusive Use Common Areas, all Common Area landscaping, including trees, shrubs, lawns, drainage facilities, fountains and other items, if any.

6.4.3 All furnishings, equipment and property that is owned by, or may be acquired by the Association.

6.4.4 The maintenance and repair of all Common Area pavement, whether concrete, asphalt or otherwise, and all unassigned parking areas.

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

6.5.1 Notwithstanding the means by which termites have entered an Owner's unit (*i.e.*, regardless whether they are subterranean or otherwise), each Owner shall be responsible for the maintenance and repair of his/her/its Unit, as well as improvements and betterments within the unit (*e.g.*, floor tile, wall treatments, carpet, mirrors), as required to control the presence of or damage caused by wood-destroying pests or organisms or repairs for same.

6.5.2 Association shall be responsible for the cost of termite treatment by the pest control company. The responsibility for the cost to repair or replace any item which has been damaged by the presence of wood-destroying pests or organisms and/or which requires repair because of the access needed to facilitate termite treatment (hereinafter "termite damage and repair costs") shall be allocated as set forth herein. Association shall be responsible for the payment of termite damage and repair costs related only to those items allocated as Association's maintenance responsibility under Exhibit A. Similarly, Owner shall be responsible for the payment of termite damage and repair costs related only to those items allocated as Owner's maintenance and repair responsibility under the Exhibits A and A-1. The Board shall have the power

to levy a reimbursement assessment against any Owner and his/her/its Unit upon failure to pay the Association any costs of said Owner's allocable share of costs and expenses attendant for the termite control.

6.5.3 Association shall have the power to temporarily remove any unit resident for such periods and at such times as may be necessary for prompt, effective treatment of such pests or organisms. The costs of any temporary relocation during such maintenance or repair shall be paid by the Unit Owner affected. The Association shall give notice of the need to temporarily vacate a unit to the record Owners and occupants not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation. The notice shall state the reason for the relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment and that the occupants will be responsible for all necessary accommodations during the relocation.

6.5.4 Neither the Association, the Board, officers, agents and employees shall have any liability, absent willful or wanton negligence, to any Owner, family member, guest, invitee or tenant for any damage caused by the treatment.

6.5.5 The costs and expenses of all termite inspections requested by the Association shall be paid by the Association. (This shall relate only to the cost of inspection and not to the cost/expenses of any repair or treatment recommended by any such inspection, which costs shall be allocated in accordance with Section 6.5.2 above.) If any Owner requests a termite inspection for his/her/its Unit, the cost of said inspection shall be paid solely by the Owner. Notwithstanding anything else herein, in the event that an Owner wishes to obtain a termite clearance certificate for any purpose, the Owner shall be solely responsible for the cost of the inspection.

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

The Association shall be responsible for performing the repair of any damage to the Common Area or items over which the Association has control at the culpable Owner's expense. The culpable Owner shall be responsible for performing the repair of any damage to his/her/its Unit and/or Exclusive Use Common Area for which such Owner has control. The Owner of any other Unit which sustained damage shall be responsible for performing the repair of any such damage, and may charge the cost thereof to the culpable Owner.

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

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

6.7 Water Intrusion Damage. Notwithstanding any other provision in the Governing Documents, each Owner shall be solely responsible for causing the repair or replacement of any damage (including but not limited to mold rehabilitation and remediation) to any and all interior items of his/her/its Residential Unit/Lot and the cost thereof, including, but not limited to, any personal property, decorations, interior surfaces, floor and wall coverings, appliances, fixtures or other items therein, caused by water intrusion from whatever source. An Owner may obtain and maintain such insurance, at his/her/its sole expense, to protect against any damage or loss of property due to water intrusion, or the cost of repair or replacement of damaged items for which such Owner is responsible. The Association shall not be liable for damage to property in the Project resulting from water which may leak or flow from outside of any Residential Unit/Lot or from any part of the building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, unless caused by the gross negligence of the Association, its Board, officers, agents or employees.

6.8 Rodent or Insect Damage. Notwithstanding any other provision in the Governing Documents, each Owner shall be solely responsible for causing the repair or replacement of any damage to any and all interior items of his/her/its Unit, and the cost thereof, including, but not limited to, any personal property, decorations, interior surfaces, floor and wall coverings, appliances, fixtures or other items therein, caused by rodent or insect damage from whatever source. Association shall not be liable for damage to personal property, wall coverings floor treatment or any other fixtures or furnishings within the interior of the Unit, resulting from rodents or insects which may damage the inside or outside of any Unit or from any part of the building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, unless caused by the gross negligence of the Association, its Board, officers, agents or employees.

ARTICLE 7 — ARCHITECTURAL AND DESIGN CONTROL

7.1 General. Any change or improvement to the exterior of a Unit, any Exclusive Use Common Area, or to the interior which affects the exterior of Unit, or any mechanical or service systems (HVAC systems, gas, water or electrical pipes or wires, etc.), or the structural integrity of any building, shall be governed by this Article. Changes or improvements to the Common Area by the Association do not need to comply with the requirements of this Article. The powers and duties set forth in this Article shall be vested in, and exercised by, the Board. The Board may establish an Architectural Committee as provided herein to assist the Board in reviewing architectural submittals, and to provide recommendations to the Board with regard to approval or disapproval of any submittal.

7.2 Architectural Changes Not Requiring Prior Approval. Nothing contained herein shall be construed to limit the right of an Owner to (1) paint the interior of his/her/its Unit any color desired; (2) make minor repairs to the exterior of the Unit; (3) improve or alter any improvements within the interior of the Unit, provided such improvement or alteration is in accordance with the Architectural Guidelines, and does not impair or alter the Common Area, any utilities, or other systems servicing the Common Area or other Units.

7.3 Architectural Changes Requiring Prior Approval. Nothing may be erected, placed or planted on the exterior of any Unit, or on the Common Area by any Owner, including any building, fence, wall, pool, spa, obstruction, outside or exterior wiring, screen, patio, patio cover, tent, awning, courtyard cover, trellis, tree, grass, shrub or other landscaping, any improvement or structure of any kind without the prior written approval of the Board. Modifications to the interior of Units which have the potential to affect the Common Area walls, roofs or other areas also shall require Association prior approval. Additionally, prior written Board approval shall be required for any alteration, modification, painting or other change or addition to any existing exterior improvement or landscaping.

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

7.4.1 Complete plans and specifications showing the nature, kind, shape, color, size, height, materials to be used and location of any proposed improvements, alterations or landscaping, as well as the proposed contractor and any other information as required by the Board, shall be prepared by the requesting Owner and submitted to the Architectural Committee.

7.4.2 The Architectural Committee shall review the submission and provide a written recommendation to the Board of Directors on any such submission, including the reasons for any decision, to the Board of Directors. The Board of Directors shall then respond with approval/disapproval to the requesting Owner within sixty (60) days of receipt of such submission.

7.4.3 The Board shall have the right to extend this sixty-day time line for an additional sixty (60) days upon written notice to the Owner. In considering any architectural submittal in conformance with the Architectural Guidelines, if the Board denies an Owner's architectural request, the requesting Owner shall have a period of fifteen (15) days to request a hearing, in which case the Board of Directors shall review the requesting Owner's architectural submission at an open Board meeting and render a decision within sixty (60) days of receipt of the request. All approvals by the Board of Directors must be in writing. Oral approvals shall not be deemed effective.

7.4.4 Once an Owner has obtained approval for an architectural submittal, work on such approved submittal shall promptly commence and shall be completed within a reasonable time.

7.5 **Inspection of Work.** The Board may require that final approval of an architectural submittal be conditioned upon an inspection of the completed work. Provided a final inspection is required, the Owner shall be responsible for the costs associated therewith. After such inspection, the Board shall provide the Owner with written notice of either a letter of completion or a letter of noncompliance, setting forth either: (a) all improvements made and other work completed by said Owner complies with the Governing Documents, or (b) such improvements or work do not so comply, in which event the notice shall identify the non-compliance improvements or work and set forth with particularity the basis of such non-compliance. In the event the work is found not to comply with the Governing Documents, the Owner shall promptly correct such deficiency and reapply for another inspection, or shall remove the proposed improvement and return the area to its original condition. Members of the Architectural Committee, Board of Directors, and/or appropriate Association staff, after giving due notice, may enter upon any Unit without liability of the Owner for the purpose of enforcing any and all provisions of this Article 7.

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

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

7.8 **Variances from Architectural Rules.** The Board may authorize variances from compliance with any of the architectural provisions of this Restated Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, which circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be

evidenced in writing, must be signed by at least a majority of the members of the Board of Directors, and shall become effective upon Recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Restated Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Restated Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of his/her/its Residence.

7.9 Architectural Committee. The Architectural Committee shall consist of three (3) to five (5) members, formed as follows:

7.9.1 The Board shall have the right and the duty to appoint all of the members of the Committee.

7.9.2 Members appointed to the Committee by the Board shall be Members of the Association.

7.9.3 One Board member shall be a member of the Committee and shall serve as its chairperson.

7.9.4 Members shall be appointed for terms as prescribed by the Board, provided that no term may be less than one (1) year. Notwithstanding the foregoing, all members of the Committee may be removed by the Board at any time with or without cause.

7.9.5 The Committee shall meet as often as it deems necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.

7.9.6 The Architectural Committee's recommendation required by this Restated Declaration must be decided by a majority vote of the Committee in attendance. If the Committee determines to make its recommendation to the Board of Directors through written consent, at least a majority of the entire Committee shall be required to execute the written consent before the Committee's recommendation shall be effective.

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

7.11 Liability. Neither the Board, the Architectural Committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, and (c) the development of any property within the neighborhood.

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

7.12.1 No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation or commencement of a suit to enjoin such work.

7.12.2 The Board shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required to the extent that it has not been approved by the Board or if it does not conform to the plans and specifications submitted to the Board or Committee.

7.12.3 If the Owner fails to remedy any noticed noncompliance within the time frame identified by the Association, the Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall not be less than ten (10) days after the notice of the noncompliance is issued by the Board to the Owner, and to any other interested party.

7.12.4 At the hearing, the Owner and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance.

7.12.5 If a noncompliance is determined to exist, the Board shall require the Owner to remedy or remove the same within such period or within any extension of such period as the Board, at its discretion, may grant.

7.12.6 If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board at its option, may pursue all legal and equitable remedies available to remedy or remove the noncomplying improvement and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to the Association, the Board shall recover such expenses through the levy of an enforcement assessment against such Owner. In addition to all of the remedies available to the Association (including but not limited to an Enforcement Assessment and/or suspension of privileges), and to the extent permitted by California law, the Association has the right to record in the office of the Riverside County Recorder a Notice of Non-Compliance against the Unit of the Owner who fails to take the corrective action as described above. This Notice shall remain against the Unit until the corrective action has been taken, as determined by the Board of Directors, at which time the Association will record a Release of said Notice.

7.12.7 The approval of any plans, drawings or specifications for any work of improvement done or proposed, or for any other matter requiring the approval under this Restated Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different location for improvements, the size of the structure, proximity to other residences or the Common Area and other factors may be taken into consideration by the Board or Committee in reviewing a particular submittal.

7.12.8 If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

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

7.14 Approval by Governmental Entities. Prior to commencing any alteration or improvements approved by the Association, the Owner shall comply with all appropriate governmental laws and regulations. The Association shall not be obligated to enforce the provisions of this Section. Approval by the Association shall not be considered to satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction, nor shall the approval of any governmental entity be considered to completely satisfy the requirement of Association approval. An Owner's failure to obtain such governmental approval may

subject such Owner to certain penalties imposed by the governmental entity, notwithstanding the approval of the Association, which penalties shall be the responsibility of such Owner.

ARTICLE 8 — INSURANCE

8.1 Property Insurance. The Association shall obtain and maintain a master or blanket property insurance policy that shall provide coverage against losses caused by fire and all other hazards normally covered by a "special form" policy or its equivalent for the insurable replacement value of all of the buildings containing the Residential Units, as well as all other improvements within the common area ("Master Property Insurance"). The Master Property Insurance shall be, at a minimum, a "bare walls policy," provided, however, that the Association has the right, but not the obligation, to include within the Master Property Insurance additional items, such as floor and wall treatments, cabinets, built-in appliances and other fixtures. The amount of any deductible shall be determined by the Board. This insurance shall be maintained for the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Restated Declaration. If required by any First Mortgagee who notifies the Association of its requirement, and if economically feasible and available, such policies shall contain an agreed amount endorsement, an inflation guard endorsement, and a construction code endorsement.

8.2 General Liability Insurance. The Association shall obtain and maintain a policy or policies insuring the Association, its officers, directors, agents and employees, the Owners, and the Owner's invitees, guests, employees, and their agents against any liability for bodily injury, death, and property damage arising from the activities of the Association and its Members, with respect to the Common Area and any property owned by the Association, including but not limited to General Liability Insurance. Limits of liability under the insurance shall not be less than two million dollars covering all claims for death, personal injury, and property damage arising out of a single occurrence.

The limits and coverage shall be reviewed at least annually by the Board and increased or decreased in its discretion. Such policies shall include a provision for at least ten (10) days' prior written notice to the Association, and to each First Mortgagee which is listed as a scheduled holder of a First Mortgage in the insurance policy, of any cancellation or substantial modification.

8.3 Directors and Officers Liability Insurance. The Association shall obtain and maintain one or more policies of insurance which include coverage for individual liability of officers and directors of the Association for negligent acts or omissions of those persons acting in their capacity as officers and directors. Limits of liability under this insurance shall be determined by the Board at its sole discretion, provided, however, that said limits shall not be less than two million dollars.

8.4 Fidelity Bond Coverage. The Association shall also purchase and maintain fidelity bond coverage which names the Association as an obligee, for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. If there is a management agent who handles Association funds, such agent shall also be covered by a fidelity bond. As long as commercially available, the Association shall require coverage equal to or more than the combined amount of the reserves of the association and total assessment revenue for three (3) months per Civil Code §5806 or any successor statute thereto. The fidelity bond shall also include computer fraud and funds transfer fraud if the association is using a management company or managing agent. The association's fidelity bond shall additionally include dishonest acts by that person or entity and its respective employees.

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

or advisable, including earthquake insurance coverage. The Association shall have the authority, but not the obligation, to obtain earthquake insurance coverage for the Insured Property. Any earthquake insurance coverage provided shall be in an amount recommended by one or more reputable insurance brokers or consultants. Additionally, the Board of Directors must have the prior approval of a majority of a quorum of the members before choosing to cancel or not renew any existing earthquake insurance policy for the Insured Property.

8.6 Qualifications of Insurance Carriers. All insurance provided under Section 8.1, 8.2, and 8.3 of this Article must be written by an insurance carrier with an A.M. Best Company rating of A or better (or a similar rating service company).

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

8.8 Trustee for Policies. The Association, acting through its Board, is appointed and shall be deemed trustee of the interests of all named insured under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article 9 herein. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

8.9 Individual Insurance. An Owner should separately insure his/her/its real and personal property, and shall obtain and maintain personal liability and property damage liability insurance for his/her/its Unit. Each Owner is responsible for integrating his/her/its personal insurance with the Association's insurance to confirm that such Owner's property will be protected in the event of a loss.

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

8.11 Insurance Policy Deductibles. As provided in this Article, the Board of Directors shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

8.11.1 Owners shall be responsible for the cost of any deductible if the damage or loss occurs to an item of his/her/its personal property and/or any damage to any portion of his/her/its Unit, as well as any property damage which is based upon an occurrence located in an area for which the Owner is responsible to maintain.

8.11.2 The Association shall be responsible for the cost of any deductible if the damage or loss occurs to any item owned by the Association, or for any property damage located within that portion of the Common Area within the Association's maintenance responsibility.

8.11.3 The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, the responsible Owner shall be liable for the cost of the deductible.

8.12 **Owner Notification of Insurance.** In accordance with Section 5300(b) of the California *Civil Code*, or any successor statute or law, the Association shall, upon issuance or renewal of insurance, but no less than annually, notify the Owners as to the amount and type of insurance carried by the Association. The notice shall include a statement regarding whether the Association is or is not insured to the levels specified by California *Civil Code* Section 5805, and that if not so insured, Owners may be individually liable for the entire amount of a judgment, and if the Association is insured to the levels specified, then Owners may be individually liable only for their proportional share of assessments levied to pay the amount of any judgment which exceeds the limits of the Association's insurance. The Association shall be required to comply with the provisions of this Section to the extent it is required by California *Civil Code* Section 5805 or any successor statute or law.

ARTICLE 9 — DAMAGE OR DESTRUCTION

9.1 **Duty to Restore.** A portion of the Project for which insurance carried by the Association is in effect, that is damaged or destroyed, must be repaired or replaced promptly by the Association unless:

9.1.1 The Project is terminated.

9.1.2 Repair or replacement would be illegal under a state statute or municipal ordinance.

9.1.3 Seventy-five percent (75%) of Owners, including each Owner of a Unit or Exclusive Use Common Area that will not be rebuilt, vote not to rebuild.

9.2 **Cost of Repair.** Any cost of repair or replacement in excess of insurance proceeds and any applicable reserve for the building component to be rebuilt shall be a common expense, levied against Condominiums in the same proportion as regular assessments are levied.

9.3 **Repair Plans.** The Project must be repaired and restored in accordance with either (a) the original plans and specifications, updated as required to reflect applicable building codes, or (b) other plans and specifications which have been approved in writing by the Board and a majority of Owners, and at least fifty-one percent (51%) Eligible Mortgagees holding Mortgages on Units subject to the repair.

9.4 **Replacement of Less Than Entire Project.**

9.4.1 The insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Project.

9.4.2 Except to the extent that other persons or entities will be distributees:

(a) The insurance proceeds attributable to a Unit and Exclusive Use Common Area that are not rebuilt must be distributed to the Owner of that Unit and the Owner of the Unit to which the Exclusive Use Common Area is appurtenant, or to lien holders, as their interests may appear.

(b) The remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the interests of all the Units.

(c) If the Owners vote not to rebuild a Unit, the common interest portions of the Unit shall be reallocated among all other Units, and the Association shall prepare, execute and record an amendment to the Declaration reflecting the reallocations.

9.5 **Minor Repair.** The Board shall have the duty to repair and reconstruct all Common Areas without the consent of Members and regardless of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed One Hundred Thousand Dollars (\$100,000.00). In the case of damage to Common Areas which does not exceed One

Hundred Thousand Dollars (\$100,000.00), all Units shall be assessed for an equal portion of any uninsured expense, if necessary. The Board may waive this absolute duty to repair by a unanimous vote, which shall be duly noted in the minutes of the meeting at which the vote was taken, and shall be communicated to Owners.

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

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

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

9.8.1 Whether or not damaged or destroyed property is to be repaired or restored.

9.8.2 The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

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

ARTICLE 10 — EMINENT DOMAIN

10.1 Representation by Association. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area(s), or any part thereof. In furtherance of this purpose, each Owner, by acceptance of a deed to his/her/its Condominium, irrevocably appoints the Association as their attorney-in-fact to represent the Owners in any such condemnation proceeding(s). In the event of a taking or acquisition of part or all of the Common Area(s) by a condemning authority, the award or proceeds of settlement, less any fees or costs incurred in collection thereof, shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their Mortgagees as their interests may appear.

10.2 Common Area Taking. In the event of a taking by eminent domain of any part of the Common Area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Condominiums are not valued separately by the condemning authority or by the court. Proceeds of condemnation, less any costs and fees incurred in collection thereof, shall be distributed among Owners of Condominiums and their respective Mortgagees according to the relative values of the Condominiums affected by the condemnation.

10.3 Condominium Unit Taking. In the event of an award for the taking of any Condominium in the Project by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking, less any fees and costs incurred in collecting such amount and only up to the fair market value of his/her/its Condominium, and after acceptance thereof he or she and the Mortgagee shall be divested of

all interest in the Project if such Owner shall vacate his/her/its Condominium as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project, or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project based on the number of Units remaining in the Project.

10.4 **Substantial Taking.** If there is a substantial taking of the Project (more than fifty percent (50%), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California *Civil Code* Section 4610 or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association. The proceeds from the partition sale, less any costs or fees incurred in collection thereof, shall be distributed to the Owners and their respective Mortgagees in proportion to the fair market values of the Condominiums.

ARTICLE 11 — RIGHTS OF MORTGAGEES

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

11.2 **No Right of First Refusal.** This Restated Declaration neither contains nor shall be amended to contain any provision creating a "right of first refusal" to the Association before a Unit can be sold. Should any such rights nevertheless be created in the future, such rights shall not impair the rights of any First Mortgagee to: (a) foreclose or take title to a Unit pursuant to the remedies provided in the mortgage, (b) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (c) sell or lease a Unit acquired by the Mortgagee.

11.3 **Unpaid Dues or Charges.** Except as otherwise provided by statute, where the Mortgagee of a first Mortgage of record or other purchaser of a Unit obtains title to the same pursuant to the remedies in the Mortgage or as a result of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or Assessments made by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer.

11.4 **Action Requiring Mortgagee Approval.** Except as provided by statute in case of condemnation or substantial loss to the Condominiums and Common Area, unless at least fifty-one percent (51%) of the First Mortgagees (based upon one (1) vote for each mortgage owned) have given their prior written approval (as defined in Section 13.3), the Association and/or the Owners shall not be entitled to:

11.4.1 By act or omission seek to abandon, or terminate the Project as a condominium project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain).

11.4.2 Change the pro rata interest or obligations of any individual Condominium for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of Ownership of each Condominium in the Common Area, provided that no Owner's undivided interest in the Common Area may be changed without the consent of that Owner.

11.4.3 Partition or subdivide any Condominium.

11.4.4 By act or omission seek to abandon or partition the Common Area, or any property owned, directly or indirectly, by the Association (the granting of easements by the Association is not a transfer in the meaning of this clause).

11.4.5 Use hazard insurance proceeds for losses to any of the Project (whether to Condominiums or to Common Area) for other than the repair, replacement or reconstruction of such property.

11.5 Payment of Taxes and Insurance. First Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area property. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

11.6 Priority of Proceed or Award Distribution. Any other provision herein contained to the contrary notwithstanding, no provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the First Mortgagee pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

11.7 Notification of Mortgagee. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any Eligible Mortgagee will be entitled to timely written notice of:

11.7.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or the Unit insured or guaranteed by such Eligible Mortgagee;

11.7.2 Any default in the performance by an Owner of any obligation under the Governing Documents not cured within sixty (60) days;

11.7.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

11.7.4 Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as required by the Governing Documents.

11.8 Inspection of Documents, Books and Records. The Association shall make available to Eligible Mortgage Holders, current copies of the Governing Documents and the accounting books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances and upon payment of Association's costs and expenses.

11.9 Loan to Facilitate. Any First Mortgage given to secure a loan to facilitate the resale of a Unit after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by an assignment-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article.

11.10 Mortgagees Furnishing Information. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

11.11 Financial Statement. Any First Mortgagee shall be entitled, on written request therefor, to have the Association provide an audited financial statement for the immediately preceding fiscal year, which statement shall be furnished within a reasonable time following such request.

11.12 Termination Without Substantial Destruction. Except as provided by statute or by other provision of the Governing Documents in case of substantial destruction or condemnation of the Project, the consent of at least sixty-seven percent (67%) of Owners and the approval of fifty-one percent (51%) of Eligible Mortgagees shall be required to terminate the Project; provided that if termination is for reasons other than substantial destruction or condemnation, the agreement of sixty-seven percent (67%) Eligible Mortgagees is required.

ARTICLE 12 — ENFORCEMENT

12.1 **Right to Enforce.** The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the Governing Documents. Each Owner of a Condominium shall have a right of action against the Association or any Owner for failure to comply with the provisions of the Governing Documents.

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

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

12.4 **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the Ownership, occupation or use of any Condominium within the Project is declared to be a violation of the Governing Documents and subject to any or all of the enforcement procedures herein set forth.

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

ARTICLE 13 — AMENDMENTS

13.1 **Owner Approval of Amendments.** This Restated Declaration may be amended by the vote or written consent of an affirmative vote of at least 66 2/3rds% of a quorum of the Association. For purposes of this section only, a quorum means fifty percent plus one (50% +1) of the voting power of the Association. Notwithstanding any contrary provision in this Section, the percentage of the voting power necessary to amend a specific clause or provision of this Restated Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that specific clause or provision.

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

Notwithstanding the above, if this Restated Declaration includes a reference to a *Civil Code* or *Corporations Code* section that has been renumbered by the Legislature, then the Board of Directors may adopt a Board resolution to amend this Restated Declaration to correct the technical statutory cross reference with the Association's Restated Declaration and, thereafter, distribute a corrected Restated Declaration to the membership.

13.2 **Eligible Mortgagee Approval.** Except as provided by statute or by other provision of the Governing Documents in case of substantial destruction or condemnation of the Project, the approval of fifty-one percent (51%) of Eligible Mortgagees shall be required to add or amend any material provisions of this Restated Declaration which establish, provide for, govern or regulate:

13.2.1 Assessments, assessment liens or subordination of such liens.

13.2.2 Reserves for maintenance, repair and replacement of the Common Area.

13.2.3 Insurance or fidelity bonds.

13.2.4 Rights to use the Common Area.

13.2.5 An Owner's interest in the Common Area.

13.2.6 Convertibility of Units into Common Area, or Common Area into Units.

13.2.7 Leasing of Units.

13.2.8 Imposition of any rights of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his/her/its Condominium.

13.3 **Eligible Mortgagee Approval Response Time.** An Eligible Mortgagee who receives a written request to approve additions or amendments by certified or registered mail, return receipt requested, addressed to the address provided by such Eligible Mortgagee, who does not deliver or post to the requesting party a negative response within thirty (30) days after the notice of the proposed addition or amendment, shall be deemed to have approved such request.

ARTICLE 14 — GENERAL PROVISIONS

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

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

14.3 **Severability.** The provisions of this Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision.

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

14.5 **Interpretation.** The provisions of this Restated Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision of this Restated Declaration shall not constitute a waiver of the right to enforce that provision or any other provision of this Restated Declaration.

14.6 **Order of Priority.** If there is any inconsistency between any of the following documents, then, in such an event, the order of priority and supersession of any such conflicting and inconsistent language shall be in the order of priority listed below with Subpart (a) having the highest priority and Subpart (d) having the lowest priority:

- (a) This Restated Declaration
- (b) Articles of Incorporation
- (c) Restated Bylaws
- (d) Rules & Regulations, Architectural Guidelines, and Enforcement Procedure

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

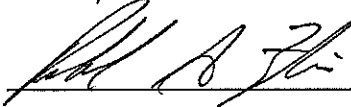
14.8 **Fair Housing.** Neither Association nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Unit to any person on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, age, marital status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

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

14.10 **Attorneys' Fees.** In the event an attorney is engaged by the Board to enforce the Governing Documents, the Association shall be entitled to recover from the adverse party to the controversy its actual attorneys' fees and costs so incurred. In the event litigation and/or Alternative Dispute Resolution is commenced to enforce the Governing Documents, the prevailing party shall be entitled to its attorneys' fees and costs. Said costs and attorneys' fees shall constitute a lien on the Unit which is enforceable pursuant to Article 4 herein. This Section shall also apply to actual attorneys' fees incurred to collect any post-judgment costs.

IN WITNESS WHEREOF, the undersigned has executed this Restated Declaration of Covenants, Conditions and Restrictions this 07 day of SEPTEMBER 2019.

M.S. Homeowners Association, Inc.,
a California Nonprofit Mutual Benefit Corporation

By:  President

By:  Secretary

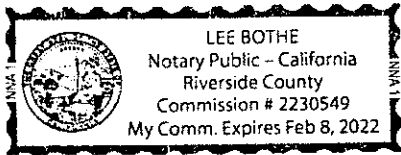
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Riverside }

On September 7, 2019 before me, Lee Bothe, notary public, personal appeared Ronald A. Zahoryin who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



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

WITNESS my hand and official seal.

Signature Lee Bothe
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

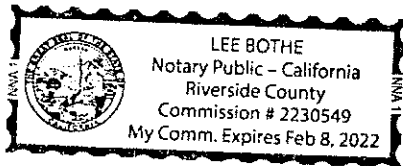
CIVIL CODE § 1189

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Riverside }

On September 7, 2019 before me, Lee Bothe, notary public, personal appeared Suzan Felando who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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



WITNESS my hand and official seal.

Signature Lee Bothe
Signature of Notary Public

EXHIBIT A — ALLOCATION OF MAINTENANCE RESPONSIBILITIES

Notwithstanding any allocation of maintenance / repair / replacement responsibilities contained in the Exhibit A-1 Matrix, the express provisions under the Restated Declaration, or under California Law, the following general principles shall apply in determining the maintenance and repair responsibilities between the Association and the Owner:

1. **Exterior Residential Building Maintenance.** Any maintenance / repair / replacement responsibility by the Association for the buildings where the Units are located shall be limited to the exterior surface of such buildings, the roof system, as well as the repair /replacement of all residential footings, foundations and slabs that are required to maintain the structural integrity of any building containing any of the Units. As such, each and every Owner shall be responsible to maintain his/her/its interior walls, that portion of the party wall adjacent to his/her/its Unit, as well as any structural elements within the residential building which relate to the Owner's Unit.

2. **Exterior Stucco and Exterior Paint of Unit.** Association shall be responsible for the repair and/or replacement of the exterior stucco and exterior paint of each residential building in accordance with a regular maintenance schedule as recommended by consultants and experts, and shall provide maintenance for such areas on the basis of regular wear-and-tear unless immediate painting or repair is necessary to prevent water intrusion or other resulting damage. Any Owner who wishes to facilitate painting and/or repair of the building stucco outside the Association's regular maintenance schedule may do so, subject to the Architectural Guidelines, obtaining architectural approval, and at Owner's sole cost and expense.

3. **Owner-Installed Improvements.** Any Owner-installed improvement, wherever located, shall be the maintenance and repair responsibility of the Owner, and not that of the Association. If such Owner-installed improvement impacts or changes any portion of the Association maintenance area, the Association shall have the right to bring such Association maintenance area into conformity with the other Association maintenance areas and charge Owner for any related costs to do so as a Reimbursement Assessment.

4. **Access Damage.** The Association shall facilitate repair and maintenance of those items allocated in Exhibits A and A-1 as an Association-maintained/repair item ("Association-Maintained Item"). Notwithstanding any provision contained in these Governing Documents to the contrary, the responsibility for the cost to repair or replace any item which has been allocated to the Owner to maintain, repair and replace but which has been damaged and/or which requires repair because of the access needed within an Owner's Unit to facilitate an Association Maintained Item shall be allocated to the Owner of the Unit at issue. The Board shall have the power to levy a Reimbursement Assessment against any Owner and his/her/its Unit upon failure to pay the Association any cost of said Owner's allocable share of access damage costs and expenses.

EXHIBIT A-1 MATRIX

DESCRIPTION OF AREA		A=ASSOCIATION; O=OWNER; U=UTILITY CO.		
		A	O	U
CONDOMINIUM UNIT				
1.	Exterior painting of front door and frame	X		
2.	Interior painting of front door and interior frame		X	
3.	Hardware, weather stripping, threshold and fixtures of all doors		X	
4.	Interior painting of condominium unit		X	
5.	Repair, replacement and cleaning of window screens		X	
6.	Repair, replacement and cleaning of patio door screens		X	
7.	Repair, replacement and cleaning of windows, glass and sliding doors		X	
8.	Repair, replacement and cleaning of patio doors, security doors and glass		X	
9.	Exterior painting of outside walls (stucco)	X		
10.	Exterior painting of outside trim of unit	X		
11.	Exterior repair of wood trim	X		
12.	Interior wall paint, wall coverings, and drywall, inclusive of ceilings		X	
13.	Interior floor coverings		X	
14.	Unit roof repair and replacement	X		
15.	Maintenance, repair and replacement of insulation located in the attic or walls adjacent to and/or within the Unit		X	
16.	Maintenance, repair and replacement of baseboards, interior and exterior door casings and door trim		X	
17.	Maintenance, repair and replacement of switches, doorbell button and wiring, timers and outlets		X	
18.	Exterior light fixtures, wiring, and bulbs connected to an Association Common Area meter	X		
19.	Exterior light fixtures, wiring and bulbs connected to Unit's electrical meter		X	
20.	Residence security system and service		X	
21.	Maintenance, repair and replacement of all internal and external plumbing fixtures, hoses and shut off valves		X	
22.	Maintenance and repair of toilets, seals and all toilet components		X	

DESCRIPTION OF AREA		A=ASSOCIATION; O=OWNER; U=UTILITY CO.		
		A	O	U
23.	Interior lights, electrical switches, doorbell transformer, doorbell chimes and fixtures, wiring and bulbs connected to the unit's electrical meter		X	
24.	Upkeep, repair and replacement of all HVAC systems and components including refrigerant line and electrical wiring and thermostat		X	
25.	Maintenance, repair and replacement of water softener system and components		X	
26.	Upkeep, repair, replacement and cleaning of the dryer vent system (including if the vent system goes under the slab to the applicable area of the dryer)		X	
CARPORTS				
27.	Exterior painting of Carport Space	X		
28.	Stains on Carport Slab		X	
29.	Carport Roof System	X		
30.	Repair of carport asphalt when there is a crack over ½"	X		
31.	Repair of carport asphalt when there is a crack less than ½"		X	
PATIOS				
32.	Patio concrete slab/flooring including cracks		X	
33.	Watering, maintenance and upkeep of Common Area plant material around perimeter of patio	X		
34.	Watering, maintenance and upkeep of Owner provided plants		X	
35.	Maintenance and upkeep of irrigation system within patio		X	
36.	Faucets within patio areas		X	
37.	Painting of wrought iron	X		
38.	Maintenance and repair of the exterior surface and roof of the storage shed	X		
39.	Maintenance and repair of the interior of the storage shed as well as any locks		X	
40.	Maintenance and repair of any patio cover, sunshade material and/or exterior sun shade window covers		X	
41.	Patio security light fixtures, bulbs and patio electrical outlets		X	
ENTRY AREA WALKWAY / FRONT ENTRANCE AREA				
42.	Upkeep, repair and replacement of walkway to front door when a crack is over 1/2"	X		

DESCRIPTION OF AREA		A=ASSOCIATION; O=OWNER; U=UTILITY CO.		
		A	O	U
43.	Upkeep, repair and replacement of concrete walkway to front door when a crack is less than 1/2"		X	
44.	Upkeep, repair and replacement of developer installed front stoop	X		
45.	Upkeep, repair and replacement of Owner installed or modified front stoop/front patio area		X	
UTILITIES				
46.	Electrical service up to and including the electric meter			X
47.	Electrical distribution from the meter to and within the Unit		X	
48.	Water distribution up to and including the water meter			X
49.	Water distribution from the water meter to the shut off valve adjacent to the condo unit (but not including the shut off valve or the regulator) excluding any pipes underneath the slab, in the subfloors (if there is a 2 nd story) or in the walls	X		
50.	Water distribution from the shut off valve adjacent to the condo unit to the unit (including the shut off valve and the regulator) and including all pipes within the walls, underneath the slab and/or in the subfloors (if there is a 2 nd story)		X	
51.	Water distribution system within the airspace of the Unit		X	
52.	Telephone and telephone wires (either telephone company or Owner)		X	X
53.	Wiring for Cable TV (either cable TV company or Owner)		X	X
54.	Repair, maintenance and replacement of the sewer system line serving the Residential Unit located inside the Residential Unit, as well as located within and/or below the slab, footings, subfloors and/or foundations		X	
55.	Sewer system line breaks outside the Unit and within the Common Area, up to the point where it goes underneath a slab or any other Owner improvement that is part of the condominium unit	X		
56.	Costs for access damage to facilitate any Association-required repairs of sewer and/or water line break		X	
57.	Sewer system line stoppages		X	
58.	Sewer system line stoppages caused by roots of trees in Common Area	X		
APPLIANCES RELATED TO THE CONDOMINIUM UNITS ONLY				
59.	Upkeep, repair and replacement of furnace		X	
60.	Maintenance, repair and replacement of air conditioner		X	
61.	Maintenance, repair and replacement of air duct system		X	

DESCRIPTION OF AREA		A=ASSOCIATION; O=OWNER; U=UTILITY CO.		
		A	O	U
62.	Maintenance, repair and replacement of smoke detectors		X	
63.	Upkeep, repair and replacement of refrigerator		X	
64.	Upkeep, repair and replacement of dishwasher		X	
65.	Upkeep, repair and replacement of kitchen stove and oven		X	
66.	Upkeep, repair and replacement of kitchen and bath cabinets		X	
67.	Upkeep, repair and replacement of plumbing fixtures and connections to water and sewer system		X	
68.	Upkeep, repair and replacement of bathtubs, shower stall, shower pans, bath and shower tile		X	
69.	Upkeep, repair and replacement of water heater		X	
COMMON AREA PROPERTY AND LANDSCAPING				
70.	Landscaping within Common Area	X		
71.	Upkeep, repair and replacement of clubhouse, gates, gate telephone system, swimming pools, spa and tennis courts	X		
72.	Irrigation system – Common Area only (not exclusive use Common Area)	X		
73.	Asphalt streets and concrete sidewalks within common facilities	X		
74.	Upkeep, repair and replacement of maintenance shed	X		
75.	Mailboxes (exterior maintenance (cosmetic) only)	X		
76.	Mailbox locks		X	
77.	Upkeep, repair and replacement of trash enclosures	X		
78.	Upkeep, repair and replacement of all Common Area fencing, including slump stone, stucco and wrought iron perimeter walls	X		
79.	Upkeep, repair and replacement of all vehicle and pedestrian gates (including hardware)	X		