

BEST BEST & KRIEGER LLP

A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

LAWYERS

400 CAPITOL MALL, SUITE 1650
SACRAMENTO, CALIFORNIA 95814
(916) 325-4000
(916) 325-4010 FAX
BBKLAW.COM

RIVERSIDE
(909) 686-1450
INDIAN WELLS
(760) 568-2611

ONTARIO
(909) 989-8584
SAN DIEGO
(619) 525-1300
ORANGE COUNTY
(949) 263-2600

KEVIN T. COLLINS
(916) 551-2084
KEVIN.COLLINS@BBKLAW.COM
FILE No. 17942.00050

December 30, 2003

VIA UPS

Daniel J. McHugh
City Attorney
City of Redlands
35 Cajon St., Ste. 200
Redlands, CA 92373-1505

*1-7-04
original
forwarded to
L. Emmerman*

Re: Mountain View Covenants, Conditions and Restrictions

Dear Dan:

I have enclosed a copy of the Covenants, Conditions and Restrictions ("CC&Rs") for the Mountain View Common Interest Development. Please have the appropriate individual at the City sign where indicated, have the signature notarized and return to my office in the enclosed overnight envelope. As we discussed, we will be recording the CC&Rs without one declaration page from one property owner. However, by the time the City Council meets on January 6, 2004 to discuss the CC&Rs, we are hopeful that we will have the last declaration page signed.

Please give me a call if you have any questions or concerns.

Sincerely,



Kevin T. Collins
for BEST BEST & KRIEGER LLP

KTC:drf

Enclosure

cc: Howard Golds

SACRAMENTO\KTC\11600.1

Recording Requested By:

When Recorded Return To:

BEST BEST & KRIEGER LLP
Attn: Kevin T. Collins
400 Capitol Mall, Suite 1650
Sacramento, CA 95814

AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
MOUNTAIN VIEW APARTMENTS

AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR MOUNTAIN VIEW APARTMENTS

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AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR MOUNTAIN VIEW APARTMENTS

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR MOUNTAIN VIEW APARTMENTS ("Amended Declaration") is made this ____ day of _____, 2003, by STEVEN M. SPEIER, RECEIVER. STEVEN M. SPEIER, RECEIVER, may hereinafter be referred to as "Receiver" or "Declarant."

RECITALS

A. Receiver was substituted as the Receiver in that certain action entitled City of Redlands, a California municipal corporation, Petitioner, v. Federal Home Loan Mortgage Corporation, etc., et al, Respondents, Case No. SCVSS 095981, in the Superior Court of the State of California, County of San Bernardino ("Court"), pursuant to a court order filed in such action on March 17, 2003 ("Order"). Receiver therefore has jurisdiction over the "Subject Property" as described in the Order, which Subject Property is the Covered Property under this Amended Declaration.

B. California Code of Civil Procedure Section 568, and California Health & Safety Code Section 17980, subdivision (c) (4) (H), empower the Receiver generally to do such acts respecting the Subject Property as the Court may authorize. The Receiver's duties include the rehabilitation of the Subject Property as set forth in an Order dated January 27, 2003. The Court has authorized Receiver to execute and record this Amended Declaration upon the "Covered Property" described in Exhibit "A" attached hereto.

C. The Mountain View Apartments Association, a California nonprofit mutual benefit association ("Association") was created to manage and maintain the Covered Property and was incorporated and its Articles of Incorporation filed with the Secretary of State on January 20, 1981. The Association has been inactive for a number of years, and it is Receiver's intention to reactivate the Association in order to provide for the maintenance and management of the Covered Property.

D. The Covered Property is a common interest development consisting of a planned development as defined in Section 1351(k) of the California Civil Code. Each Lot in the Covered Property has been improved with a residential structure containing either three or four apartment units (defined herein as "Units"). The Covered Property and the improvements thereon may hereinafter be referred to as the "Project."

E. A majority of the Units in the Covered Property are used as rental properties for residential tenants and the Covered Property has experienced in recent years a decline in the condition in which it is maintained and kept. Declarant and the Owners desire to amend and restate the Original Declarations described below and reactivate the Association in order to maintain the

Project in a condition which provides attractive and safe housing for their tenants. The Owners of each Lot in the Covered Property (or the Receiver, as applicable) have consented to the provisions contained in this Amended Declaration and have agreed that they may be imposed upon the Covered Property. Such consents are contained in Exhibit "B" attached hereto.

F. The City of Redlands ("City") is responsible generally to ensure that properties located within the City are maintained in accordance with the provisions of applicable City ordinances and regulations in such manner which will provide for the health, safety and welfare of the residents, and the City has required that the Original Declarations be amended in order to facilitate the proper maintenance of the Project, and has approved this Declaration by execution of the signature page below.

G. The Association will manage the Project, maintain and administer the Common Areas, administer and enforce the Governing Documents of the Association, and perform such other acts as may benefit the Project.

H. This Amended Declaration, upon recordation in the Official Records of San Bernardino County, California, shall amend, restate and supersede the following documents which shall thereafter be of no further force and effect upon the Covered Property (except that the perpetual reciprocal easements over the driveways and private roadways as depicted on the record maps for Tracts 10141 and 10142, and as described in Article V of the Declaration described in paragraph (1) below, shall run with the land in perpetuity):

- (1) Declaration of Covenants, Conditions and Restrictions for Tract 10141, recorded January 15, 1981 as Instrument No. 81-009947, Official Records of San Bernardino County, California;
- (2) First Amendment to the Declaration of Covenants, Conditions and Restrictions for Mountain View Apartments, recorded January 29, 1981, as Instrument No. 81-020696, Official Records of San Bernardino County, California;
- (3) Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Mountain View Apartments, recorded April 30, 1981, as Instrument No. 81-093992, Official Records of San Bernardino County, California;
- (4) Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Mountain View Apartments, recorded June 23, 1981, as Instrument No. 81-136338, Official Records of San Bernardino County, California;
- (5) Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for Mountain View Apartments, recorded January 11, 1982

as Instrument No. 82-005581, Official Records of San Bernardino County, California;

- (6) Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Mountain View Apartments, San Bernardino County, California, recorded February 17, 1982 as Instrument No. 82-031520, Official Records of San Bernardino County, California;
- (7) Supplementary Declaration of Covenants, Conditions and Restrictions Annexing Lots 7, 19 and 28 through 31 of Tract 10141 to the Mountain View Apartments Association, recorded February 19, 1982 as Instrument No. 82-033132, Official Records of San Bernardino County, California.

The documents described above may be collectively referred to herein as the "Original Declarations." The Original Declarations covered a portion of the Covered Property and provided for annexation of the balance of the Covered Property. Although the balance of the Covered Property was never annexed to the Project, it was the intent of the original developer, and a requirement of the City in processing the subdivision maps for the Covered Property, that all of the Covered Property would be covered by approved covenants, conditions and restrictions and would be managed and maintained by an association. All of the Covered Property is therefore included in this Amended Declaration.

NOW, THEREFORE, Declarant covenants and agrees that the Covered Property, the Project and all of the Lots, including any improvements added or constructed on or about the Project in the future, shall be held, conveyed, assigned, hypothecated, encumbered, leased, used, occupied and improved subject to the following limitations, restrictions, covenants, conditions and easements, for the purpose of mutually benefitting the Covered Property, the Project and all of the Lots, and the future Owners thereof. All of the covenants and restrictions set forth herein shall run with the land, shall be enforceable as equitable servitudes, and shall be binding upon and for the benefit of all parties having or acquiring any right, title or interest in the Covered Property, the Project or any of the Lots.

ARTICLE I

DEFINITIONS

The following terms used in this Amended Declaration are defined as follows:

Section 1. Articles. The term "Articles" shall mean and refer to the Articles of Incorporation of the Association, which have been filed in the Office of the Secretary of State of California, as amended from time to time.

Section 2. Assessments. The following definitions shall apply to the assessments described below:

(a) Regular Assessment shall mean the amount which is to be paid by each Owner to the Association for Common Expenses as provided by the terms of this Amended Declaration.

(b) Special Assessment shall mean a charge against each Owner and his Lot, representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common Area or Association Maintenance Area which the Association may from time to time authorize pursuant to the provisions of this Amended Declaration.

(c) Reimbursement Assessment shall mean a charge against a particular Owner and his Lot for the purpose of reimbursing the Association for costs incurred in bringing the Owner and his Lot into compliance with the provisions of the Governing Documents, or any other charge designated as a Reimbursement Assessment in this Amended Declaration or Association Rules, together with attorney's fees and other charges payable by such Owner, pursuant to the provisions of this Amended Declaration.

(d) Reconstruction Assessment shall mean a charge against each Owner and his Lot representing a portion of the cost to the Association for reconstruction of any portion of the Common Area or Association Maintenance Area pursuant to the provisions of this Amended Declaration.

Section 3. Association. The term "Association" shall mean and refer to MOUNTAIN VIEW APARTMENTS ASSOCIATION, a California nonprofit mutual benefit corporation, its successors and assigns.

Section 4. Association Maintenance Area. The term "Association Maintenance Area" shall mean and refer to (a) the landscaping upon the Lots ("Lot Landscaping"), and (b) the Private Easements for Ingress and Egress as shown on the recorded maps for the Project ("Private Drives"). The Private Drives consist of paved driveways over certain Lots which provide access to the Lots from public streets, but the Private Drives do not include the parking areas or carports which may be located adjacent to the Private Drives. The Association Maintenance Area includes the Improvements installed in the Private Drives such as paving, signs, lighting, and the like, which shall be maintained by the Association. The Association shall obtain general gardening services for the

Lot Landscaping, including mowing and edging in the front, side and back yards and maintenance of planter areas, but the Association will not be responsible for major installation, repair or maintenance of the landscaping or irrigation facilities upon the Lots. If private utilities such as drainage facilities and sanitary sewer lines are located within the Association Maintenance Area, and if those private utilities affect multiple Lots within the Project, the Board shall maintain those private utilities and may charge the Owners of the affected Lots (either all the Lots in the Project, or a portion of the Lots as appropriate) a Reimbursement Assessment.

Section 5. Association Rules. The term "Association Rules" shall mean and refer to the uniform rules and regulations, which may from time to time be promulgated by the Association, pertaining to, but not limited to, (a) the use of the Common Area and the Association Maintenance Area and any recreational facilities thereon, or (b) maintenance, occupancy, animals, leasing, vehicle and parking restrictions within the Project (including any rules applicable to Tenants ["Tenant Rules"]) as may be promulgated by the Association).

Section 6. Board of Directors. The term "Board of Directors" or "Board" shall mean and refer to the duly elected Board of Directors of the Association.

Section 7. Building. The term "Building" shall mean and refer to the building constructed upon each Lot in the project, which Building includes either three (3) or four (4) residential apartment Units.

Section 8. Bylaws. The term "Bylaws" shall mean the Bylaws of the Association, as amended from time to time (including the Amended Bylaws adopted by the Receiver).

Section 9. City. The term "City" shall mean and refer to the City of Redlands, California, a municipal corporation of the State of California.

Section 10. Common Area. The term "Common Area" shall mean all portions of the Project except the Separate Interests therein, and shall include (a) all common recreational facilities, if any, as well as all other land, structures and facilities within the Project which are conveyed to the Association for the use and enjoyment of the Owners, and/or (b) mutual or reciprocal easement rights appurtenant to the Separate Interests. The Common Area includes Lot A of Tract 10141 and Lot A of Tract 10142. The Improvements in the Common Area may consist of landscaping, fences or walls, irrigation and lighting and such other Improvements as may be installed in the Common Area from time to time. (Lot A of Tract 10141 has been improved with a swimming pool which is in disrepair and must be either be rehabilitated or removed. If removed, Lot A will be improved with landscaping and other improvements as determined by the Association.)

Section 11. Common Expenses. The term "Common Expenses" shall mean and refer to the actual and estimated costs of:

(a) maintenance, management, operation, repair and replacement of the Common Area and the Association Maintenance Area, and all other areas on the Covered Property which are maintained by the Association;

- (b) unpaid Special, Reconstruction and Reimbursement Assessments;
- (c) maintenance by the Association of areas within the public right-of-way of public streets in the vicinity of the Covered Property as provided in this Amended Declaration or pursuant to agreements with the City or other governmental authority having jurisdiction;
- (d) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers or Managing Agents, accountants, attorneys and employees;
- (e) the costs of utilities, trash pickup and disposal, gardening and other services benefitting the Owners, their Lots and the Common Area to the extent such services are paid for by the Association and not separately and individually billed directly to Owners;
- (f) the costs of fire, casualty, liability, workers' compensation and other insurance covering the Common Area, the Project and the Association;
- (g) the costs of any other insurance obtained by the Association;
- (h) reasonable reserves as deemed appropriate by the Board;
- (i) the costs of bonding of the members of the Board, any professional Managing Agent or any other person handling the funds of the Association;
- (j) any taxes paid by the Association;
- (k) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Area or portions thereof;
- (l) costs incurred by the Planning Committee, the Tenant Screening Committee, or other committees of the Association; and
- (m) such other costs or expenses incurred by the Association in connection with the Common Area, the Governing Documents, or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Amended Declaration.

Section 12. Common Interest Development. The term "Common Interest Development" shall mean and refer to a planned development as defined in California Civil Code Section 1351(k). A planned development is a development in which (a) the Common Area is owned by an association or by the owners in common (who possess appurtenant rights to the use and enjoyment of the Common Area), and/or (b) the association has assessment and lien rights to enforce an obligation of an owner with respect to the use and enjoyment of the Common Area. The Project is a Common Interest Development under California law.

Section 13. County. The term "County" shall mean and refer to San Bernardino County, California.

Section 14. Covered Property. The term "Covered Property" shall mean and refer to all of the real property described in Exhibit "A" attached hereto.

Section 15. Declarant. The term "Declarant" shall mean and refer to Steven M. Speier, Receiver, his successors and assigns.

Section 16. Declaration. The term "Declaration" or "Amended Declaration" shall mean this Amended and Restated Declaration, i.e., this document.

Section 17. Governing Documents. The term "Governing Documents" shall mean and refer to this Amended Declaration, the Articles, the Bylaws, any operating Association Rules, and any other documents or amendments to documents which govern the operation of the Project or the Association.

Section 18. Improvements. The term "Improvements" shall include buildings, outbuildings, driveways, parking areas, carports, fences, screening walls, retaining walls, stairs, decks, hedges, windbreaks, plantings, trees and shrubs, poles, signs and all other structures and landscaping improvements of every type and kind.

Section 19. Institutional Holder. The term "Institutional Holder" shall mean and refer to any beneficiary of a deed of trust or mortgage of a mortgage which encumbers a Lot and which is a bank or savings and loan association or established mortgage company or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 20. Lease, Landlord, Tenant. The term "Lease" shall mean and refer to a written rental or lease agreement between Landlord and Tenant as required by this Amended Declaration. The term "Landlord" shall mean and refer to any Owner who leases or rents a Unit in his Building to a tenant or lessee. The term "Tenant" shall mean and refer to any lessee or tenant who leases or rents a Unit in the Project from an Owner.

Section 21. Lot. The term "Lot" shall mean and refer to any plot of land or parcel shown on any recorded subdivision map of the Project, with the exception of the Common Area, and shall include the Building constructed upon such Lot. A Lot is a "Separate Interest" as defined in Section 1351(L)(3) of the Civil Code.

Section 22. Managing Agent. The term "Managing Agent" shall mean and refer to a person or entity, who for compensation, or in expectation of compensation, exercises control over the assets of the Association. However, a "Managing Agent" does not include a full-time employee of the Association or a regulated financial institution operating within the normal course of its regulated business practice.

Section 23. Member. The term "Member" shall mean and refer to each person entitled to membership in the Association as provided in the Governing Documents.

Section 24. Mortgage. The term "Mortgage" shall mean and refer to any duly recorded and valid mortgage or deed of trust encumbering a Lot.

Section 25. Owner. The term "Owner" shall mean and refer to one or more persons or entities holding fee title or an equitable ownership interest in any Lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 26. Planning Committee. The term "Planning Committee" shall mean and refer to the Planning Committee created pursuant to the Articles of this Amended Declaration entitled "Architectural Control and Planning Committees."

Section 27. Project. The term "Project" shall mean and refer to all of the Covered Property, including all of the Lots, the Common Area and all Improvements located upon the Covered Property.

Section 28. Receiver. The term "Receiver" shall mean and refer to Steven M. Speier (and any successor Receiver), who has been appointed by the Court as Receiver in Case No. SCVSS 095981, on file in the Superior Court of the State of California, County of San Bernardino.

Section 29. Separate Interest. The term "Separate Interest" shall mean and refer to a separately owned Lot and the Building and Improvements constructed thereon. The estate in a Separate Interest may be a fee, a life estate, an estate for years, or any combination thereof.

Section 30. Tenant Screening Committee. The term "Tenant Screening Committee" shall mean and refer to the Tenant Screening Committee created pursuant to Article IV, Section 13 of this Amended Declaration.

Section 31. Unit. The term "Unit" shall mean and refer to an apartment located within a Building constructed upon a Lot. Each Building in the Project contains either three (3) or four (4) Units.

ARTICLE II

CREATION OF PLANNED DEVELOPMENT

Section 1. Division of Project. Declarant, in order to establish the Project as a Planned Development, hereby divides the Project into the following:

(a) Sixty-four (64) designated and legally described Lots, which are shown, defined and described on the recorded subdivision maps for the Project;

(b) The Common Area consisting of the remainder of the Project, excepting the Lots as shown on the subdivision map, and described as Lot "A" of Tract 10141 and Lot "A" of Tract 10142.

Section 2. Interest in Common Area. Acquisition of title to a Lot shall also include the right to use and enjoy all of the Common Areas within the Project including a non-exclusive easement for ingress, egress, and support, if necessary, through the Common Area. Each conveyance of a Lot, whether voluntary or involuntary, shall also convey the right to use and enjoy the Common Area even though the conveyance document may omit reference to the Common Area.

Section 3. Conveyance of Common Area to Association. Lot "A" of Tract 10141 was reserved on the recorded map for Tract 10141 for recreational purposes for the use and benefit of the present and future homeowners and title to Lot "A" of Tract 10141 and was conveyed to the Association. Lot "A" of Tract 10142 to the Association was reserved on the recorded map for Tract 10142 for recreational purposes for the use and benefit of the present and future homeowners. Any and all amenities and facilities located on the Common Area shall be owned by the Association, and they shall not be subject to a lease between the Association and any other party.

ARTICLE III

RIGHTS OF ENJOYMENT

Section 1. Members' Right of Enjoyment. Every Member of the Association shall have a nonexclusive easement for use and enjoyment of the Common Area, including the right of ingress, egress, and support (if necessary) in, to, and throughout the Common Area, which shall be appurtenant to and pass with title to each Lot, subject to all of the easements, covenants, conditions, restrictions and other provisions contained in this Amended Declaration, including, without limitation, the following:

- (a) The right of the Association to reasonably limit the number of guests of Owners using the Common Area recreational facilities, if any;
- (b) The right of the Association to establish uniform rules and regulations pertaining to (a) the use of the Common Area and the Association Maintenance Area and any recreational facilities thereon, or (b) maintenance, occupancy, animals, leasing, vehicle and parking restrictions within the Project (including any Tenant Rules as may be promulgated by the Association);
- (c) The right of the Association, upon the vote or written assent of a majority of the voting power of the Association, to borrow money for the purpose of improving the Common Area and any Improvements thereon and (subject to the rights of Institutional Holders described in Article XIII) to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (d) Subject to the rights of Institutional Holders described in Article XIII, the right of the Association to dedicate, release, alienate, transfer or assign an interest in the Common Area to any public agency, authority, utility or other person for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, release, alienation, transfer or assignment shall be effective, unless an instrument is signed by Members entitled to cast at least a majority of the voting power of the Association agreeing to such dedication, release, alienation or transfer has been recorded;
- (e) The right of the Association to suspend the rights and easements of use and enjoyment of the recreational facilities, if any, located on the Common Area, of any Member, and the persons deriving such rights and easements from any Member, for any period during which the payment of any assessment against such Member and his Lot remains delinquent; and, after notice and hearing with an opportunity to be heard (satisfying the minimum requirements of Section 7341 of the California Corporations Code), to impose monetary penalties or suspend such use rights and easements for a reasonable period of time as determined by the Board, not exceeding thirty (30) days, for any violation of the Governing Documents, it being understood that any suspension for either nonpayment of any assessment or breach of such restrictions shall not constitute a waiver or discharge of the Member's obligation to pay assessments or comply with the restrictions;

(f) The right of the Association to levy a reasonable charge for the use of any recreational facilities located on the Common Area;

(g) The right of the Association, acting through the Board, to grant concessions for snack bars and other commercial activities relating to the use and enjoyment of the Common Area by the Members, provided that any such contract shall be subject to the restrictions on contracts described elsewhere in this Amended Declaration and in the Bylaws.

Section 2. Delegation of Use. Any Member may delegate his right to the use and enjoyment of the Common Area to the members of his family, his guests or Tenants who reside in the Units of his Building, subject to Association Rules.

Section 3. Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association, or release his Lot from the liens, charges and other provisions of the Governing Documents, by waiver of the use and enjoyment of the Common Area or the abandonment of his Lot.

ARTICLE IV

USE RESTRICTIONS

In addition to all other covenants contained herein, the use of the Project, each Lot and the Common Area is subject to the following:

Section 1. Business and Commercial Use. No Lot, Building, Unit or any part thereof shall be used for any business, commercial, manufacturing, mercantile, storing, vending, or other nonresidential purposes; provided, however, that the Association shall have the right to provide or authorize such services on the Common Area as it deems appropriate for the enjoyment of the Common Area or for the benefit of the Members. Notwithstanding the foregoing, (a) nothing herein shall be deemed to limit the leasing of any of the Units pursuant to Section 13 below, and (b) this Section shall not preclude professional administrative occupations in Units which do not create any external evidence thereof, including, but not limited to any increased impact on the use of the Private Drives or parking in or adjacent to the Project, and so long as (i) such occupations are conducted in conformance with all applicable City ordinances; (ii) no such activity increases the liability or casualty insurance obligations of the Association and premiums paid therefor; (iii) such activity is consistent with the residential character of the Project, and (iv) such activity is consistent with the terms, conditions and covenants contained in this Amended Declaration.

Section 2. Maintenance of Lots and Buildings. Except for the Association's maintenance responsibilities in the Association Maintenance Area, each Owner shall be responsible for the maintenance and appearance of his Lot and the Building and all other Improvements on his Lot. Although the Association will provide general gardening services as set forth in this Amended Declaration, it is the Owner's responsibility to install and replace landscaping, such as trees, plants, shrubs and grass, and install and maintain the irrigation system on his Lot. Owners shall therefore assure that their Lots are properly landscaped and that all landscaping, including grass, trees, ornamental shrubs, and the like, is properly irrigated, trimmed, fertilized and maintained, and that irrigation systems are kept in good working order at all times. The Lots, and the Buildings and other Improvements on the Lots, shall be maintained in a neat, clean, orderly, safe, sanitary and attractive condition, including, without limitation, prompt removal of graffiti, regular painting of exterior surfaces, maintenance or prompt replacement of damaged windows, screens and doors, roof maintenance as required, maintenance of the paved areas of the Lot (except the Private Drives which shall be maintained by the Association), including resurfacing of parking and driveway areas as required, and maintenance, repair and painting of the carport structures and trash enclosures. The following conditions are prohibited within the Project: dilapidated, deteriorating or unrepaired structures, including fences, roofs, doors, walls and windows; scrap lumber, junk, trash or debris; abandoned, discarded or unused objects or equipment such as automobiles, auto parts, furniture, stoves, refrigerators, cans, containers and the like; stagnant water or excavations; and any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition or inappropriate location. All painting and alterations of the exterior surfaces of Buildings shall be undertaken in conformance with the requirements of Article XII regarding Architectural Control. If a Building is destroyed or damaged by fire or other casualty and the Owner elects not to rebuild,

the Owner shall clear the Lot of all debris within a reasonable time. In the event that any Owner fails to maintain his Lot or Building in accordance with the standards described in this Section, the Association shall have the right, but not the obligation, to undertake such maintenance and levy the expense thereof against the delinquent Owner as a Reimbursement Assessment.

All repairs and maintenance effected pursuant to this Section shall be subject to such additional Association Rules as the Association may establish. If any Owner fails to maintain to make the repairs or replacements which are the responsibility of the Owner as set forth in this Amended Declaration or the Association Rules, then, upon the vote of a majority of the Board, and after not less than thirty (30) days notice to the Owner, the Association shall have the right (but not the obligation) to enter the Lot and provide such maintenance or make such repairs or replacements, and the cost thereof shall be a Reimbursement Assessment chargeable to such Lot and payable to the Association by the Owner thereof.

Section 3. Interior Maintenance of Units/Carports. Each Owner shall maintain the interior of the Units in compliance at all times in compliance with this Declaration and all governmental regulations relating to rental properties, and shall repaint and repair as necessary before re-renting the Unit. Each Owner or Tenant occupying a Unit shall maintain the Unit, including any balcony or patio area, and any parking area and carport appurtenant to his Unit, in a neat, orderly, safe, sanitary and attractive condition, and in a manner to eliminate broken or discarded furniture, appliances or other household equipment, packing boxes, lumber, trash, dirt and other debris. Each Owner and Tenant shall have an affirmative obligation to (a) prevent any condition within such areas which would be classified as a fire hazard or a condition dangerous to the public health, safety and general welfare, and (b) perform such maintenance as may be required by this Declaration and in accordance with City ordinances and other governmental regulations.

Section 4. No Obstruction of Common Area or Private Drives. There shall be no obstruction of the Common Area or Private Drives nor shall anything be stored in the Common Area or Private Drives without the prior written consent of the Board. Nothing shall be altered or constructed in or removed from the Common Area or Private Drives, except upon the prior written consent of the Board.

Section 5. Signs. Subject to the provisions of California Civil Code Sections 712 and 713, no sign, poster, billboard, advertising device or other display of any kind shall be displayed so as to be visible from outside any portion of the Project without the approval of the Planning Committee, except such signs of customary and reasonable dimensions as prescribed by the Planning Committee which may be displayed on or from a Lot advertising a Unit for Lease or the Lot for sale.

Section 6. Animals. Pitbulls, rottweilers, doberman pinschers, potbelly pigs, or animals restricted by City ordinances may not be kept in any Unit or within the Project. No insects or animals of any kind shall be raised, bred or kept on the Project except that a reasonable number of dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained, for any commercial purpose, or in violation of any other provision of this Amended Declaration, the Association Rules, or the provisions of any Lease. The Association, acting through the Board of Directors, shall have the right to prohibit maintenance of any animal on any Lot in the Project which

constitutes, in the opinion of the Board, a nuisance (including, without limitation, unreasonable noise or barking) to other Owners and Tenants within the Project. Animals belonging to Owners or their licensees, Tenants or invitees within the Project must be either kept within an enclosure, an enclosed yard or patio or on a leash or bridle being held by a person capable of controlling the animal. Every person bringing an animal upon or keeping an animal in the Project shall be liable pursuant to the laws of the State of California to each and all persons for any injury or damage to persons or property caused by such animal. Each Owner or Tenant shall be responsible for cleaning up any excrement or other unclean or unsanitary condition in the Project caused by his animal. If the Board determines that animal waste is routinely allowed to accumulate anywhere in the Project, this will constitute a nuisance and a risk to public health. The Board shall have the right to prohibit maintenance of any animal determined to be a nuisance in the Project and notify the owner to remove the animal. If the animal is not removed from the Project within ten (10) days from the date of the notice, the Board shall notify the Lot Owner of such nuisance, which shall be a default under any Lease, and the owner of the animal, if a Tenant, shall be evicted from the rented Unit.

Section 7. Utilities. Each Owner or Tenant shall be obligated to pay any and all assessments for sewage, electricity, other utilities, taxes and other charges assessed individually against his Lot or Unit.

Section 8. Trash. The Association shall arrange and pay for trash collection within the Project, and the costs for same shall constitute a Common Expense which shall be paid by the Association and collected through the Regular Assessment process. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any portion of the Project, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity or to its occupants. Such containers shall be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed twenty-four (24) hours) before and after scheduled trash collection hours. If trash bins are located in designated trash areas in the Project, all Owners and Tenants shall utilize such trash bins for the disposal of their trash.

Section 9. Vehicles and Parking. No trailer, motor home, truck (except pickup trucks used for personal transportation, the dimensions of which allow parking in carports), camper, boat or inoperable vehicle shall be stored, kept, constructed, repaired or maintained anywhere on the Project. No Owner, Tenant or occupant of a Unit shall conduct repairs or restoration of any vehicle upon any portion of the Project. Vehicles may be parked only in carports or other designated parking spaces, but shall not be parked in the Private Drives or within the yard areas of the Lots. Without limiting the obligations of Owners and Tenants to comply with the provisions of this Amended Declaration, the Association, through any Director or Officer or the Managing Agent, or any agency representing the Association, shall have the right, and shall be obligated, to enforce parking restrictions as set out in this Declaration or the Association Rules and to remove any vehicle wrongfully parked or parked without authorization removed from the Project under California Vehicle Code Section 22658.2 or any other applicable California Vehicle Code, Redlands Municipal Code, or other applicable laws, codes and statutes. If, for any reason, the Association shall fail to enforce the vehicle restrictions set forth in this Declaration or in the Association Rules, the City shall have the right, but not the

duty, to enforce parking and other vehicle restrictions in accordance with the provisions of the aforementioned applicable laws, codes and statutes.

Section 10. Compliance with Governing Documents. Each Owner, Tenant or occupant of a Lot, Building or Unit shall comply with the provisions of the Governing Documents including, without limitation, this Amended Declaration and the Association Rules. Failure to comply with any such provisions or rules shall be grounds for an action to recover sums due, for damages, for injunctive relief, or for any other remedy permitted by law or by the terms of this Amended Declaration.

Section 11. Conduct in Buildings, Units, Common Area and Private Drives. The Common Area and Private Drives shall not be used for any purpose or in any manner which might cause them to be uninsurable against loss by fire or the perils of the extended coverage endorsement of the California Standard Fire Policy form, or cause any policy of insurance to be canceled or suspended or the company issuing the same to refuse renewal thereof. No Building or Unit shall be used in such a manner as to obstruct or interfere with the enjoyment of occupants of other Buildings or Units or annoy them by unreasonable noises or otherwise, nor shall any nuisance be committed or permitted to occur upon any Lot, Building, Unit, or upon the Common Area and Private Drives. No noxious, offensive or illegal activities shall be allowed, carried on or conducted on any part of the Project, and no loitering or gambling shall be committed or permitted to occur in the Project.

Section 12. Controlled Substances/Alcohol. Each Owner and the Association shall cooperate with law enforcement agencies to take such steps as may be necessary to remove Tenants and/or occupants of the Units who are engaged in the illegal consumption, sale or manufacture of controlled substances. Additionally, each Owner and the Association shall take such actions as may be necessary to prohibit the public consumption of alcoholic beverages by Tenants and others outside the Units on the Lots or elsewhere within the Project, including the Common Areas and Private Drives of the Project.

Section 13. Leasing of Units. No Owner shall lease any Unit in his Building for transient or hotel purposes or lease less than an entire Unit. All Leases must be in writing, signed by Landlord and Tenant, and shall provide that the terms of such Lease shall be subject to and in accordance with the provisions of the Governing Documents of the Association (i.e., this Amended Declaration, Bylaws, Articles, and Association Rules (including any Tenant Rules as may be promulgated by the Association), and that any failure by the Tenant to comply with the terms of such documents shall constitute a default under the Lease. Any Lease which is either for a period of less than thirty (30) days or pursuant to which the Landlord provides any service normally associated with a hotel shall be deemed to be for transient or hotel purposes.

Each Owner is responsible for thoroughly screening prospective Tenants and otherwise managing his rental Units in accordance with this Amended Declaration. Upon completion of the screening process for each prospective Tenant by the Owner, the Owner shall submit a copy of the Tenant application (including the names of the prospective Tenant(s) and the names and ages of all members of such prospective Tenant's family or household who will occupy the Unit) to the Association for a final screening and review of the prospective Tenant, and the Association's

rejection or acceptance of the prospective Tenant shall be final. Once a prospective Tenant is rejected by the Association Representatives, that prospective Tenant shall not be reconsidered through an application for rental of a different Unit and shall not be allowed to rent any Unit in the Project. The Board may assign the Association's Tenant screening duties to a Managing Agent or a Tenant Screening Committee, the members of which may be, are not required to be, Members of the Association. Neither the Association, the Board or any officer or agent of the Association, nor their duly authorized representatives, including any member of the Tenant Screening Committee (collectively, the "Association Representatives") shall be liable, however, to the Association or to any Owner or prospective Tenant, for any loss, damage or injury arising out of or in any way connected with the performance of the Association Representatives' duties hereunder unless due to the willful misconduct or bad faith of the Association Representatives. The Association Representatives' review of Tenant information submitted to it will be based solely on the prospective Tenant's rental history and references, income, and criminal background. No Landlord may lease a Unit to any person who has been convicted of a felony within the last ten (10) years. The criminal background of all adults to be living in the prospective Tenant's household may also be considered in the same manner as the prospective Tenant (i.e., no prospective occupant of the Project shall have been convicted of a felony within the last ten (10) years), but in no event shall the Association's Tenant screening process be based upon race, sex, adulthood, marital status, color, religion, ancestry, physical handicap or national origin.

If the Board becomes aware that an Owner has failed to submit the Tenant information for a final screening and approval by the Association, has demonstrated a pattern of consistently renting to Tenants who violate the Governing Documents of the Association, or has failed to maintain the Units on his Lot, such an Owner shall be in violation of this Section 13, and the Association may levy fines or assessments against the Owner to enable the Association to charge against the Owner all costs, including attorneys' fees, incurred by the Association as a result of this violation, or as a penalty.

Any Owner who rents or leases a Unit shall promptly notify the Secretary of the Association in writing of the names of all Tenants and members of such Tenants' family or household occupying the Unit, and shall provide the Secretary of the Association with a copy of the Lease. All Owners shall thereafter promptly notify the Secretary of the Association of the address and telephone number where such Owner can be reached. Any failure of a Tenant to comply with the Governing Documents of the Association shall constitute a default under the Lease, regardless of whether the Lease so provides. In the event of such default, the Owner shall immediately take all actions to cure the default including, if necessary, eviction of the Tenant.

If any Tenant is found to be in violation of the provisions of the Governing Documents, the Association may bring an action in its own name and/or in the name of the Owner to have the Tenant evicted and/or to recover damages. To the fullest extent permitted by law, the Association may recover all of its costs, including court costs and reasonable attorneys' fees incurred in prosecuting the unlawful detainer action. The Association shall give the Tenant and the Owner notice in writing of the nature of the violation of the Governing Documents, and twenty (20) days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

Each Owner shall manage the rental of his Units, and the Association shall have no obligation regarding same except as set forth in this Section 13. Notwithstanding the foregoing, should the Owners consistently fail to properly maintain their Lots and Buildings, fail to properly screen their Tenants, or fail to evict Tenants for a violation of the Governing Documents, either the Association or the City, in its or their sole discretion, shall have the right, but not the obligation, to institute a rental management program in the Project, whereby the Owners will be obligated to pay fees for management services on a per Unit basis.

Section 14. Occupancy. Each Owner shall take steps as may be necessary to restrict occupancy of his Units to comply with any applicable City ordinances and any applicable Association Rules and guidelines regarding overcrowding.

Section 15. Discrimination. Neither an Owner, the Association, nor any Manager or Managing Agent, shall, either directly or indirectly, forbid or restrict the sale, transfer, lease, rental or occupancy of any Unit in the Project to any person of a specified race, sex, adulthood, marital status, color, religion, ancestry, physical handicap or national origin.

Section 16. Antennas. Subject to the requirements of California Civil Code Section 1376, no television, radio or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain within the Project unless it has been approved in writing by the Planning Committee, or the Board, or unless it is fully contained within a Unit.

Section 17. Windows/Window Covers. Curtains, drapes, shutters or blinds may be installed as window covers. No window shall be painted or covered with aluminum foil, cardboard, sheets, blankets or other similar materials. All windows must be screened, and all screens maintained in good condition and repair. Broken window glass shall be promptly repaired by the Owner.

Section 18. Solar Energy Systems. Subject to approval of the Planning Department of (a) the City or other governmental authority having jurisdiction, and (b) the Association, Owners shall have the right to place and maintain solar energy equipment or any other energy saving devices on their Lots. The application for approval shall be processed by the Planning Committee in the same manner as an application for approval of an architectural modification to the Building. The Association may impose reasonable requirements in connection with the approval as set forth in California Civil Code Section 714.1. Such equipment shall be installed in such location and in such manner as to be obscured from the view of other persons in the Project to the greatest degree practicable without significantly decreasing its efficiency.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner shall automatically, upon becoming the Owner of a Lot, be a Member of the Association, and shall remain a Member thereof until his ownership ceases for any reason, at which time his membership in the Association shall also automatically cease. For each Lot there shall be on file with the Association an address of record for the Owner, and a phone number in case of emergency, all of which shall be kept current by the Owner. Ownership of a Lot shall be the sole qualification for membership in the Association; provided, however, that a Member's voting rights or privileges to use the Common Area, or both, may be regulated or suspended as provided in the Governing Documents. All memberships shall be appurtenant to the Lot conveyed, and a person or entity shall be deemed an Owner of a Lot only upon recordation of a deed, contract of sale or other document conveying the Lot to him.

Section 2. Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance or encumbrance of his Lot, and then only to the transferee or Mortgage holder of the Lot. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Lot also includes the Owner's membership interest in the Association. In the event an Owner fails or refuses to transfer the membership registered in his name to the transferee of his Lot, the Board may record the transfer upon the books of the Association. The Association may impose reasonable fees against the selling Owner for the actual costs of (a) transferring the selling Owner's membership on the books of the Association, and/or (b) providing documentation to the selling Owner as required in Article XVI, Section 11 of this Amended Declaration.

Section 3. One Class of Membership. The Association shall have one (1) class of voting membership consisting of those Owners described in Section 1 above. Each Member shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. If one Owner casts the vote attributed to a Lot, the vote shall conclusively bind all the Owners of that Lot. If more than one Owner casts the vote attributed to a Lot, the votes cast by such Owners shall not be counted and shall be considered void.

Section 4. Required Vote. Notwithstanding anything to the contrary contained elsewhere in this Amended Declaration, any action by the Association which must have the approval of the membership shall require the vote or written assent of a bare majority of the total voting power of the Association unless a higher percentage vote is required by a particular provision of this Amended Declaration on a particular issue.

Section 5. Vesting of Voting Rights. All voting rights which are attributable to a specific Lot shall not vest until such time as that Lot is subject to Regular Assessments (and Special Assessments, if any) pursuant to the terms of this Amended Declaration.

Section 6. Voting Rights Limitations/Board Representation/First Meeting of Members.
Notwithstanding anything to the contrary contained elsewhere in this Amended Declaration or in the Amended Bylaws of the Association:

- (a) The initial Board of Directors shall consist of three (3) Directors who need not be Members so long as the Receiver may appoint Directors as set forth below. Following the first annual meeting of the Members, the Board shall consist of five (5) Directors;
- (b) The Receiver shall have the right to appoint the initial Board consisting of three (3) members to serve until the first annual meeting of the Members, at which time an election of the Board will be held. Such first meeting of the Members shall be set at a time and place selected by the Receiver and shall take place within one (1) year after the recording of this Amended Declaration;
- (c) Commencing at the first such annual meeting of the Members and continuing for so long as the Receiver has jurisdiction over any Lot in the Project, the Receiver shall have the right to appoint three (3) members of the Board of Directors, and the two (2) remaining Board members shall be elected by the Members of the Association;
- (d) No single Member (who may own multiple Lots and therefore have multiple voting rights) shall have the ability to select all members of the Board of Directors. Any Member shall have the right to accumulate his votes and give one candidate a number of votes equal to the number of Directors to be elected, multiplied by the number of votes to which he is entitled, or to distribute his votes on the same principle among as many candidates as he desires, so long as the resulting vote does not effectively allow that Member to select all Members of the Board;
- (e) Where a husband and wife or any other parties are the joint Owners of a single Lot or multiple Lots, such Owners may not serve simultaneously on the Board of Directors, and only one of such Owners may be nominated and elected to the Board. Similarly, where a corporation, partnership, limited liability company or other legal entity owns a Lot or multiple Lots, two representatives of such entity may not serve simultaneously on the Board of Directors, and only one representative of such entity may be nominated and elected to the Board at any given time.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Covenant to Pay Assessments. Each Owner of any Lot, by acceptance of a conveyance therefor (whether or not it is expressed in such conveyance), is deemed to covenant and agree to pay to the Association: (1) Regular Assessments or charges, (2) Special Assessments for capital improvements, (3) Reimbursement Assessments, and (4) Reconstruction Assessments, all such assessments to be established and collected as hereinafter provided. Each of these assessments, together with interest, costs of collection and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to such person's successors in interest unless expressly assumed by them.

Section 2. Purpose of Assessments. The Association shall levy Regular and Special Assessments in sufficient amounts to perform the Association's obligations under the Governing Documents, but shall not impose or collect an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Project and for the improvement, operation and maintenance of the Common Area and the Project and the performance of the duties of the Association as set forth in the Governing Documents.

Section 3. Regular Assessments. The amount and time of payment of Regular Assessments against each Lot shall be determined by the Board, giving due consideration to the current maintenance and management costs and future needs of the Association. Regular Assessments are collected from the Owners to defray expenses attributable to the ownership, operation or furnishing of common interests or the enjoyment of mutual and reciprocal rights of use. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board shall estimate the total Common Expenses to be incurred for the upcoming fiscal year, and shall determine the amount of Regular Assessments to be paid by each Member. Written notice of the amount of the Regular Assessment for the year shall be sent to each Member, who shall thereafter pay the Regular Assessment to the Association in monthly installments. Any increase in Regular Assessments shall be undertaken in compliance with Section 5 of this Article VI.

Section 4. Special Assessments for Capital Improvements. In addition to the Regular Assessments authorized above, the Association may levy, in any fiscal year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement (other than due to destruction) of a capital improvement upon the Common Area and the Project, including fixtures and personal property related thereto, or any other action or undertaking on behalf of the Association, to the extent the same is not covered by the provisions affecting Reconstruction Assessments described below.

Section 5. Increases in Regular and Special Assessments. In the event that the Board at any time determines that the estimate of total charges for the current year is or will become inadequate

to meet all Common Expenses for any reason, it shall immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine a revised amount of Regular Assessments for each Member and the date or dates when due. However, annual increases in Regular Assessments for any fiscal year shall not be imposed unless (a) the Board has prepared and distributed, not less than 45 days nor more than 60 days prior to the beginning of the fiscal year of the Association, a copy of the pro forma operating budget (as described in Civil Code Section 1365 – hereafter the "Budget") with respect to that fiscal year, or (b) has obtained the approval of Owners constituting a quorum, casting a majority of the votes at a meeting or election of the Association. In any event, except as provided below, Regular Assessments may not be increased by more than twenty percent (20%) over the Regular Assessment for the preceding fiscal year and increases in Special Assessments may not exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for the current fiscal year, without approval by the vote or written assent of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association. Notice and quorum for any meeting called to approve an increase in Regular or Special Assessments in excess of the percentage limitations described above (or in connection with any increase for which the Budget was not prepared and distributed as set forth above) shall be conducted in accordance with the Bylaws. For purposes of this Section, "quorum" means more than fifty percent (50%) of the Owners of the Association. Any meeting or election of the Association for purposes of complying with this Section shall be conducted in accordance with Sections 7510 through 7527 and 7613 of the Corporations Code.

The Association shall provide notice by first-class mail to the Owners of any increase in Regular or Special Assessments, not less than thirty (30) nor more than sixty (60) days prior to the date the increased Assessment becomes due.

The percentage limitations for increases in Regular and Special Assessments described above will not limit assessment increases necessary for emergency situations. An "emergency situation" includes any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety is discovered; or
- (c) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible which could not have been reasonably foreseen by the Board in preparing and distributing the Budget. Prior to the imposition or collection of an assessment under this subsection (c), the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense and why such expense was not or could not have been reasonably foreseen in the budgeting process, which resolution shall be distributed to the Members with the notice of such assessment.

Section 6. Reimbursement Assessments. The Association may levy a Reimbursement Assessment against any Owner who fails to comply with the provisions of this Amended Declaration, the determinations of the Planning Committee, the Articles or Bylaws, or any rule or

regulation adopted by the Association, if such failure results in the expenditure of monies by the Association in carrying out its functions hereunder or for purposes of collecting any fines which may be levied by the Association. Such assessment shall also be for the purpose of reimbursing the Association for any costs incurred by the Association on behalf of an individual Owner. A Reimbursement Assessment shall be due and payable to the Association when levied but may not become a lien as provided by Section 14(b) of this Article VI which could otherwise be enforced by a sale of the Owner's Lot.

Section 7. Reconstruction Assessments. Assessments for reconstruction of Improvements upon the Common Area may be levied in accordance with the provisions of that Article below entitled "DESTRUCTION OF IMPROVEMENTS."

Section 8. Uniform Rate of Assessment. Regular and Special Assessments shall be fixed at a uniform rate for all Lots and shall be levied against each Owner according to the ratio of the number of Lots owned by the Owner to the total number of Lots subject to assessment.

Section 9. Date of Commencement of Regular Assessments: Due Dates. The Regular Assessments described herein shall commence as to all Lots on the first day of the month following the recordation of this Amended Declaration in the Official Records of San Bernardino County, California. The initial Board of Directors appointed by Receiver (pursuant to Section 6 of Article V of this Declaration) shall set the amount of the initial Regular Assessments payable for the remainder of the fiscal year, giving due consideration to the current maintenance and management costs and future needs of the Association, and shall notify each Owner of the amount due each month for the remainder of that fiscal year and the commencement date. The Regular Assessments for subsequent years will be determined as set forth in Section 3 above.

Section 10. Certificate of Payment. The Association shall, within ten (10) days after receipt of written request, furnish to any Member liable for assessments a certificate in writing signed by an Officer or authorized agent of the Association, stating (as of the date the statement is issued) whether assessments for a specific Lot have been paid and the amount of unpaid Assessments, if any, including penalties and attorneys' fees, which are or may be made a lien upon the Member's Lot. A reasonable charge, of not less than Fifteen Dollars (\$15.00), and not more than the reasonable cost of preparing the certificate (as determined by the Board) may be collected for the issuance of such a certificate. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid as to all third parties relying thereon, but shall not relieve any Owner of liability for assessments not in fact paid.

Section 11. No Offsets. All assessments shall be payable in the amount specified and no offset against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Amended Declaration.

Section 12. Reserves. Regular Assessments shall include reasonable amounts as determined by the Board collected as reserves for the future periodic maintenance, repair or replacement of major components of the Common Area and the Association Maintenance Area (including the

Private Drives) which the Association is obligated to repair, restore, replace, or maintain, and for which the reserve fund was established, and for litigation involving these purposes. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be (a) collected by regular, scheduled monthly payments included in Regular Assessments rather than by large special assessments, and (b) deposited by the Board in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board's responsibilities in regard to the reserve funds are further described in Civil Code Sections 1365 and 1365.5.

Section 13. Pledge of Assessment Rights. The Association shall have the power to pledge to exercise its assessment powers to obtain funds to repay a debt of the Association; provided, however, that any such pledge shall require the prior affirmative vote or written assent of not less than a majority of the Members at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with Special Meetings of Members. The Association may levy Special Assessments against the Members to obtain such funds. Upon the failure of any Member to pay such a Special Assessment when due, the Association may exercise all of its rights, including, without limitation, the right to foreclose its lien, pursuant to the further provisions of this Amended Declaration.

Section 14. Effect of Nonpayment of Assessments; Remedies of the Association. Each Owner upon becoming an Owner of any Lot, covenants and agrees to pay to the Association all of the assessments provided for in this Amended Declaration and further agrees to the enforcement of all such assessments in the manner herein specified. Regular and Special Assessments are delinquent fifteen (15) days after they become due. If an assessment is delinquent, the Association may recover all of the following:

- (1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorneys' fees;
- (2) A late charge not exceeding ten percent (10%) of the delinquent assessment or Ten Dollars (\$10.00) whichever is greater (a late charge may not be imposed more than once on any single delinquent payment, but it shall not eliminate or supersede any charges imposed on prior delinquent payments); and
- (3) Interest on the above sums, including the amount of the delinquent assessment, reasonable costs of collection and late charges, at an annual percentage rate of twelve percent (12%), commencing thirty (30) days after the assessment becomes due.

A Regular or Special Assessment and any late charges, reasonable costs of collection, and interest, shall be a debt of the Owner at the time the assessment or other sums are levied. In addition to any other remedies provided herein or available at law or in equity, the Board or its authorized representative may enforce the obligations of the Owners to pay the assessments provided for in this Amended Declaration by either or both of the following procedures:

(a) Enforcement by Suit. The Association may commence and pursue an action against any Owner personally obligated to pay assessments for such delinquent assessments. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon, costs of collection, court costs and reasonable attorney's fees in such amount as the court may adjudge against the delinquent Owner. Pursuant to California Civil Code Section 1367.1 (h), suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien hereinafter described. The remedy provided in this paragraph shall be the exclusive manner of enforcing payment of delinquent Reimbursement Assessments.

(b) Enforcement by Lien. At least thirty (30) days before the Association may place a lien upon the Separate Interest of an Owner, the Association shall notify the Owner in writing by certified mail of the following in accordance with Civil Code Section 1367.1:

- (i) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount; a statement that the Owner has the right to inspect the Association records, and the following statement in 14-point boldface type, if printed, or in capital letters if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION";
- (ii) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any;
- (iii) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association;
- (iv) The right to request a meeting with the Board as provided in California Civil Code Section 1367.1 (c), which provides, in pertinent part, as follows:
 - (1) An Owner may dispute the debt noticed by submitting to the Board a written explanation of the reasons for his or her dispute. The Board shall respond in writing to the Owner within fifteen (15) days of the date of the postmark of the explanation, if the explanation is mailed within fifteen (15) days of the postmark of the notice, and
 - (2) An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt noticed. The Association shall provide the Owners the standards for payment plans, if any

exist. The Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days of the date of the postmark of the notice, unless there is no regularly scheduled Board meeting within that time period, in which case the Board may designate a committee of one or more Members to meet with the Owner;

(v) A mailing address for overnight payment of assessments.

Any payments toward such debt shall first be applied to the assessments owed, and only after the assessments owed are paid in full shall such payments be applied to the fees and costs of collection, attorney's fees, late charges or interest. When an Owner makes a payment, the Association shall provide a receipt upon the Owner's request. The receipt shall indicate the date of the payment and the person who received it.

Not less than thirty (30) days after such notice by certified mail has been sent, the Board may record, or cause to be recorded, in the Recorder's Office of the County, a Notice of Delinquent Assessment with respect to the Lot as to which assessments are delinquent. The Notice of Delinquent Assessment shall set forth a legal description of the Owner's Separate Interest in the Project, the name of the record owners of that interest, the amount of assessments (other than Reimbursement Assessments) which are delinquent as of the date of recording, together with all reasonable fees and costs of collection, reasonable attorney's fees, late charges and interest accrued thereon. The Notice shall also include the name and address of the trustee authorized by the Association to enforce the lien by sale through nonjudicial foreclosure proceedings as described below and shall be signed by the person designated by the Board for that purpose (or if no one is designated, by the President of the Association). A copy of the recorded Notice of Delinquent Assessment shall be mailed in the manner set forth in Section 2924b to all record owners of the Owner's interest in the common interest development no later than ten (10) calendar days after recordation. Immediately upon recordation of a Notice of Delinquent Assessment, the amounts set forth in said Notice, together with all sums accruing thereon or becoming due and payable in accordance with this Amended Declaration after the date of recordation of the Notice, shall constitute a lien in favor of the Association upon the Lot described in the Notice, which lien shall be immediately due and payable.

This lien shall have priority over all liens or claims created subsequent to the recordation of the Notice except for liens for real property taxes and assessments on any Lot in favor of any governmental assessing unit. After the expiration of thirty (30) days following the recording of the Notice of Delinquent Assessment and the mailing of a copy of said recorded Notice to the Owner as set forth above, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice, or sale by a trustee substituted pursuant to Section 2934a of the California Civil Code. Any sale by the trustee shall be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot. The Association may accept

a deed in lieu of foreclosure. Within twenty-one (21) days of the payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Recorder's Office of the County a lien release or notice of rescission stating the satisfaction and release of the lien thereof, and shall provide the Owner of the Separate Interest a copy of the recorded lien release or notice of rescission.

If a Notice of Delinquent Assessments is recorded in error, the party who recorded the lien shall, within twenty-one (21) calendar days, record or cause to be recorded in the Recorder's Office of the County a lien release or notice of rescission, and shall provide the Owner of the Separate Interest with a Amended Declaration that the lien filing or recording was in error and a copy of the recorded lien release or notice of rescission.

No Owner may waive or otherwise escape liability for the assessments described in this Amended Declaration by non-use of the Common Area or any other part of the Project, or abandonment of his Lot. Notwithstanding anything contained in this Amended Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a Notice of Delinquent Assessment, whether judicially, by power of sale, or otherwise, until the expiration of thirty (30) days after a copy of said Notice, showing the date of recordation thereof, has been mailed to the Owner of the Lot which is described in such Notice.

Section 15. Subordination to Certain Trust Deeds. The lien for the assessments described herein shall only be subordinate to the lien of a first Mortgage, given and made in good faith and for value, that is of record as an encumbrance against such Lot prior to the recordation of a Notice of Assessment. The sale or transfer of any Lot shall not affect the assessment lien described herein, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent assessments. However, the sale or transfer of any Lot pursuant to a judicial foreclosure or foreclosure by power of sale of a first encumbrance shall extinguish any assessment lien recorded prior to the time of such sale or transfer. Following a foreclosure, the interest of any purchaser at such foreclosure sale shall be subject to all assessments becoming due after the date of such sale or transfer, and in the event of nonpayment of such assessments, shall be subject to all of the remedies described in this Amended Declaration. For the purpose of this Section 15, a sale or transfer of a Lot shall occur on the date of recordation of a deed or land sale contract evidencing the conveyance of record ownership of the Lot.

Section 16. Recorded Statements. In order to facilitate the collection of Regular Assessments, Special Assessments, transfer fees, and similar charges, the Board is authorized, but not required, to record a statement or amended statement identifying relevant information for the Association as described in and pursuant to California Civil Code Section 1363.6.

ARTICLE VII

MANAGEMENT OF THE ASSOCIATION AND THE PROJECT

Section 1. General Powers of the Association. All powers relating to the management, operation and maintenance of the Project and the Common Area shall be vested in the Association. The specific and primary purposes and powers of the Association are to provide architectural control of, manage and maintain the Project and the Common Area, to maintain the Association Maintenance Area, and to enforce the provisions of the Governing Documents. The Association may do any and all other acts and things that a nonprofit mutual benefit corporation is empowered to do, as enumerated in Section 7140 of the California Corporations Code, which may be necessary, convenient or desirable in the administration of its affairs and in order to carry out the duties described in this Amended Declaration, including those powers described in Section 383 of the California Code of Civil Procedure and (to the extent not inconsistent herewith) those powers described in Section 1350 et seq. of the California Civil Code (the Davis-Stirling Common Interest Development Act), as those sections may be amended from time to time.

Whenever this Amended Declaration or the Bylaws require or permit the approval, consent or action of the Association, such approval, consent or action shall be that of the Board of Directors, unless otherwise provided by this Amended Declaration or the Bylaws. The Association, through its Board of Directors, also shall have the authority to delegate its powers to committees, Officers of the Association and its employees.

Meetings of the membership of the Association shall be conducted in accordance with the Bylaws and shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the Association may adopt. Notwithstanding any other provision of law, notice of meetings of the Members shall specify those matters the Board intends to present for action by the Members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action. Members of the Association shall have access to Association records in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations Code.

Section 2. Contracts of the Association. The Association shall have the right and power to employ or engage a manager or "Managing Agent" (as defined herein) and other employees or agents and contract for such services, labor and materials as it may deem reasonably necessary to operate and maintain the Project, the Common Area and the Association Maintenance Area and the improvements thereon and to discharge its other duties. Any agreement for professional management of the Association, and the maintenance of the Association funds received by any Managing Agent, shall be subject to the provisions of California Civil Code Sections 1363.1 and 1363.2.

Section 3. General Duties of Association. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere described herein, and without limiting the generality thereof, and subject to the limitations set forth in Section 5 of this Article, the Association shall:

(a) Repair, replace and maintain and otherwise manage all of the Common Area and all facilities, improvements, and landscaping within the Common Area;

(b) Repair, replace and maintain and otherwise manage the Private Drives and provide gardening services for the Lot Landscaping within the Association Maintenance Area;

(c) Procure and maintain casualty, liability and other insurance on behalf of the Association, including, without limitation, general liability and fire insurance with extended coverage on the Common Area as required by the terms of this Amended Declaration. The Association shall also have the authority to procure and maintain any other type of insurance which the Association determines is in the best interest of the Association and its Members;

(d) Obtain, for the benefit of the Common Area, all necessary water, gas, electric, refuse collection, and other utility services;

(e) Pay taxes and assessments which are or could become a lien on the Common Area, or some portion thereof;

(f) Prepare and distribute to the Members the Budget, a review of financial statements, a statement describing the Association's policies and practices in enforcing lien rights or other legal remedies; a summary of the Association's insurance policies, and a notice regarding assessments and foreclosure, all as prescribed in Civil Code Sections 1365 and 1365.1;

(g) Initiate and pursue disciplinary proceedings against Members for violations of provisions of the Governing Documents, in accordance with the procedures set forth in this Amended Declaration;

(h) Subject to approval by a majority vote of the Members, borrow money and incur indebtedness for the purposes of the Association and cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges or other evidences of debt and security. Any mortgage or conveyance of the Common Area, or grant of easement over the Common Area (other than utility easements), however, shall require the vote or written consent of at least sixty-seven percent (67%) of the Owners;

(i) Obtain and cause to be maintained in force at all times a fidelity bond for any person handling funds of the Association, including, but not limited to, employees of the Managing Agent, if any;

(j) Obtain and pay for trash collection services for the Project and include the costs for same in Regular Assessments as a Common Expense.

Section 4. Maintenance of the Project. The Association shall provide landscaping and gardening services for all Common Areas and Association Maintenance Areas and shall repair, replace and maintain all recreational facilities or other improvements within the Common Areas.

Common Areas and Association Maintenance Areas shall be maintained by the Association, in accordance with the following minimum maintenance standards:

(a) All Improvements in the Common Area shall be maintained by the Association in a first class, attractive condition and free of graffiti;

(b) The Private Drives in the Association Maintenance Area shall be maintained, swept and resurfaced at appropriate intervals and kept free from potholes and hazards to vehicular and pedestrian traffic;

(c) The traffic control signs, pavement markings and other traffic control devices or pavement markings, the street name signs, and street lighting, if any, in the Private Drives shall be maintained in a serviceable and attractive condition;

(d) The drainage facilities located within the Common Area or the Association Maintenance Area, if any, shall be maintained in a safe and operable condition and in the manner required in order to prevent obstruction of natural drainage patterns or improved drainage facilities;

(e) All grass, trees and ornamental vegetation within the Common Area shall be properly irrigated, fertilized, trimmed, mowed, and in all respects cared for in a manner so as to provide a well maintained appearance at all times;

(f) General gardening services shall be provided for the Lot Landscaping in the Association Maintenance Area, including mowing, edging, and blowing in front, side and back yards and maintenance of planter areas, but the Association will not be responsible for major installation, repair or maintenance of the landscaping or irrigation facilities upon the Lots.

(g) All other Improvements and recreational facilities located within the Common Area shall be maintained in a neat, clean, orderly, safe, sanitary and attractive condition so as to be usable for their intended purposes and enjoyable by all members of the Association at all times.

Each Owner shall be responsible to repair and maintain his Lot and Building and to keep such Lot and Building in good and attractive condition at all times, all as more particularly described in Section 2. of Article IV above. Should the activities of any Owner, family members, Tenants, guests or invitees of such Owner result in damage to or destruction of any portion of the Common Area or any Common Area improvement, that Owner shall be held responsible for all costs associated with the repair or replacement of that portion of the Common Area, which expense may be enforced as a Reimbursement Assessment.

Section 5. Additional Restrictions on Power of the Board. The Board shall be prohibited, without the prior vote or written consent (by vote at a meeting of the Association or by written ballot without a meeting) of a majority of the Members, from doing any of the following: (i) incurring aggregate expenditures for capital improvements to any portion of the Project in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; (ii) selling during any fiscal year property of the Association having an aggregate fair market value

greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; (iii) paying compensation to Directors or Officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association; or (iv) filling a vacancy on the Board created by the removal of a Director.

Section 6. Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace or restore the underground facilities of public utilities which are located within easements in the Common Area or the Association Maintenance Area. However, the Association shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 7. Rights of Entry. The Board of Directors shall have a limited right of entry in and upon the Lots and the interior of Units for the purposes of inspecting the Project, and taking whatever corrective action may, after approval by a majority vote of the Board, be deemed necessary or proper by the Board, consistent with the provisions of this Amended Declaration. This right of entry shall include the right to enter a Lot for purposes of construction, maintenance or repair for the benefit of the Common Area, the Association Maintenance Area, or the Owners in common. However, nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property to be maintained or repaired by the Owner or Tenant of any Unit. Nothing in this Article shall in any manner limit the right of the Owner to exclusive occupancy and control over his Lot, Building and Unit, subject to the covenants, conditions and restrictions contained in this Amended Declaration.

Entry onto a Lot by the Association for other than emergency repairs or maintenance of the Association Maintenance Area on the Lot, or entry of a Unit, shall be made only after three (3) days notice has been given to the Owner and Tenant, shall be made with as little inconvenience as possible to the Owner and Tenant, and any damage caused thereby shall be repaired by the party causing such damage. In the case of an emergency, the right of the Association to enter upon a Lot or Unit shall be immediate; provided, however, that such entry shall be made with as little inconvenience as possible to the Owner and Tenant and any damage caused thereby shall be repaired by the party causing such damage. The Association shall not be liable for failing to exercise this right of entry during an emergency or otherwise.

Section 8. Power to Adopt and Enforce Association Rules. The Association shall have the power to adopt, amend and repeal such rules and regulations as it deems reasonable which may include the establishment of a system of fines and penalties enforceable as a Reimbursement Assessment. The Association Rules shall govern matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area and the Private Drives, and rules regarding maintenance, occupancy, leasing, animals, vehicle and parking restrictions, rules applicable to Tenants ("Tenant Rules"), etc.; provided, however, that the Association Rules may not discriminate among Owners, and shall not be inconsistent with this Amended Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of such rules shall be delivered to each Owner. The Association Rules shall have the same force and

effect as if they were set forth in and were part of this Amended Declaration and shall be binding on the Owners and their successors in interest whether or not actually received by them. If the Association adopts a policy imposing any monetary penalty, including any fee, on any Member for a violation of the Governing Documents or Association Rules, including any monetary penalty relating to the activities of a Tenant, guest or invitee of a Member, the Board shall adopt and distribute to each Member, by personal delivery or first class mail, a schedule of the monetary penalties that may be assessed for those violations. If changes are made to the original schedule which was adopted and distributed to the Members, the Board shall distribute copies of the revised schedule to the Members by personal delivery or first class mail.

ARTICLE VIII

INSURANCE

Section 1. Duty to Obtain Insurance: Types. The Association shall obtain and continue in effect the following types and policies of insurance:

(a) Public liability insurance for claims for personal injury and/or property damage arising out of a single occurrence with a limit of not less than Two Million Dollars (\$2,000,000.00) (\$2,000,000.00) or any greater amount required by law or regulation or otherwise deemed advisable by the Board for the protection of the Owners, the Association, and the officers and directors of the Association for activities upon the Common Area and the Association Maintenance Area. Such policy of public liability insurance covering the Common Area and the Association Maintenance Area shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners. Such liability insurance shall include coverage for (i) general liability of the Association, and (ii) individual liability of volunteer officers and directors of the Association for negligent acts or omissions of those persons acting in their capacity as officers and directors.

(b) Casualty insurance and fire insurance with extended coverage, in an amount equal to one hundred percent (100%) of the full insurable replacement cost of all Improvements, equipment and fixtures within the Common Area and the Private Drives, without deduction for depreciation. Such insurance shall be maintained for the benefit of the Association, the Owners and Institutional Holders.

(c) Workers' compensation insurance to the extent required by law (or such greater amount as the Board deems necessary) covering employees of the Association, if any. The Association shall also obtain a Certificate of Insurance naming it as an additional insured in regard to workers' compensation claims from any independent contractor who performs any service for the Association, if the receipt of such a certificate is practicable.

The Association may purchase such other insurance as it deems necessary, including but not limited to, fidelity coverage against dishonest acts on the part of Directors, Officers, Managers or Managing Agents, trustees, employees and volunteers responsible for handling funds belonging to or administered by the Association, earthquake insurance, flood insurance, plate glass insurance, medical payments, malicious mischief and vandalism insurance.

The Owners shall obtain and maintain in force liability, casualty, fire and other insurance coverage on their Lots and Buildings to the extent and in the amounts deemed necessary by the individual Owners and, if applicable, their lenders.

Section 2. Waiver of Claims Against Association. As to each policy of insurance maintained by the Board, the Owners hereby waive and release all claims against the Association and the Board, only to the extent of the insurance proceeds available to the Owners, whether or not

the insurable damage or injury is caused by the negligence of or breach of any agreement by said persons.

Section 3. Notice of Expiration Requirements. All of the policies of insurance or fidelity bonds described herein shall contain a provision that such policies shall not be canceled or terminated, or expire by their terms, without thirty (30) days' prior written notice to the Association, the Owners and Institutional Holders (provided that such Owners and Institutional Holders have filed written requests with the carrier for such notice) and every other person in interest who has requested such notice of the insurer.

Section 4. Insurance Premiums. Premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board shall be a Common Expense to be included in the assessments levied by the Association and collected from the Owners. The proportion of such assessments necessary for the required insurance premiums shall be used solely for the payment of premiums of required insurance as such premiums become due.

Section 5. Trustee for Policies. The Board shall be trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies shall be paid to the Board as trustee. The Board shall have full power to receive and to receipt for the proceeds and to disburse such proceeds as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in this Amended Declaration. The Board shall have the authority to negotiate loss settlements with insurance carriers, with participation by Institutional Holders who so desire and have filed written requests under Section 3 of this Article. Any two (2) Officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

Section 6. Actions as Trustee. Except as otherwise specifically provided in this Amended Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance, in a manner satisfactory to seventy-five percent (75%) of the Institutional Holders who have filed requests under Section 3 of this Article. Duplicate originals or certificates of all policies of fire and casualty insurance carried by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Institutional Holders who have requested the same in writing.

Section 7. Annual Insurance Review. The Board shall, upon issuance or renewal of insurance, but no less than annually, review the insurance carried by the Association for the purpose of determining the adequacy of the Association's insurance coverage, including, without limitation, the general liability policy referred to in Section 1 (a), and the casualty and fire insurance referred to in Section 1 (b) above.

Within sixty (60) days preceding the beginning of the Association's fiscal year, the Association shall notify the Owners as to the amount and type of insurance carried by the Association and shall otherwise comply with the requirements of California Civil Code Section 1365 (e) in providing such information to the Members. If the Common Area is owned by the Owners as tenants-in-common, it shall accompany this notification with statements to the effect that (i) the Association is or is not insured to the levels specified by Civil Code Section 1365.9; (ii) that if not so insured, Owners with an ownership interest in the Common Area may be individually liable for the entire amount of the judgment, and (iii) if the Association is insured to the levels specified by Civil Code Section 1365.9, then individual Owners with an ownership interest in the Common Area 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 Board may, in its discretion, obtain a current appraisal of the full replacement value of any buildings and improvements within the Common Area, except for foundations, footings and masonry walls, without deduction for depreciation, by a qualified independent insurance appraiser, prior to each such annual review.

Section 8. Required Waiver. All policies of hazard and physical damage insurance shall provide for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

- (a) Subrogation of claims against the tenants of the Owners;
- (b) Any defense based on co-insurance;
- (c) Any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (d) Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of an Owner, or arising from any act, neglect or omission of any named insured, or the respective agents, contractors and employees of any insured;
- (e) Any right of the insurer to repair, rebuild or replace, and, in the event the improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the improvements insured or the fair market value thereof;
- (f) Notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Lot; and
- (g) Any right to require any assignment of any Mortgage to the insurer.

ARTICLE IX

DESTRUCTION OF COMMON AREA IMPROVEMENTS

Section 1. Reconstruction Without Election. In the event of a total or partial destruction of any portion of the Common Area, if available insurance proceeds are sufficient to cover not less than ninety percent (90%) of the cost of repair or reconstruction, such Common Area shall be promptly repaired and rebuilt unless, within sixty (60) days from the date of such destruction, not less than seventy-five percent (75%) of the Members entitled to vote at a duly called and noticed annual or special meeting of the Members at which a quorum is present, determine that such reconstruction shall not be undertaken. If reconstruction is to take place, the Board shall cause to be executed, acknowledged and recorded in the Office of the County Recorder a certificate declaring its intention to rebuild, such certificate to be executed by any Officer or agent of the Association duly authorized to do so by the Board.

Section 2. Reconstruction By Consent. If the proceeds of such insurance are less than ninety percent (90%) of the cost of reconstruction, such reconstruction may nevertheless be undertaken if a majority of the voting power of the Association, present either in person or by proxy and entitled to vote, at a duly called and noticed annual or special meeting of the Members at which a quorum is present, elects to rebuild. In the event of an election to rebuild, a certificate shall be executed, acknowledged and recorded as described in Section 1 above.

Section 3. Assessments. In the event of a determination to rebuild pursuant to Section 1 or Section 2 above, the Board shall determine the amount (in excess of available insurance proceeds, if any) necessary in order to effect such reconstruction. The amount determined by the Board shall be levied against the Owners as a Reconstruction Assessment, payable upon such terms and conditions as the Board may deem appropriate. Any such Reconstruction Assessment shall be enforceable in the manner described in Section 14 of Article VI above.

Section 4. Board Responsibility. The Board shall take all steps necessary to assure the timely commencement and completion of any reconstruction. All amounts collected as Reconstruction Assessments shall be used only for the purposes set forth in this Article, shall be deposited by the Board in a separate bank account to be held in trust for such purposes, shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

Section 5. Determination Not to Rebuild. If a certificate of intention to rebuild has not been executed, acknowledged and recorded in accordance with Section 1 or Section 2 above within nine (9) months from the date of any partial or total destruction of the Common Area, or if reconstruction and rebuilding has not actually commenced within such period, any insurance proceeds available for such reconstruction shall be used to clear and landscape the affected areas for community park, greenbelt or other suitable use. Any deficiency in the cost of clearing and landscaping the affected areas may be raised by a Reconstruction Assessment in an amount determined by the Board. In the event any excess insurance proceeds remain, the Board, in its sole discretion, may retain such sums

in the general funds of the Association or distribute proportionately all or a portion thereof to the Members, subject to (i) the rights of Institutional Holders; and (ii) any unpaid assessments of an Owner, together with any interest and fees attributable thereto.

ARTICLE X

PROPERTY TAXES

Real property taxes, levies and assessments shall be separately and individually billed by the County Assessor's office to the Owners of individual Lots. Payment of such taxes for Lots shall be the sole responsibility of the Owner of such Lot. The Association shall not be liable for the collection and payment of any real or personal property taxes of any type whatsoever levied against individual Owners on account of their Lots. Real property taxes and assessments levied against the Common Area or personal property of the Association shall constitute a Common Expense which shall be paid by the Association through the Regular Assessment process.

ARTICLE XI

PROHIBITION AGAINST PARTITION OR SEVERANCE OF LOT FROM INTEREST IN COMMON AREA

The Common Area shall remain undivided and each Owner irrevocably waives the right to bring any action to partition the Common Area. The rights in the Common Area and title to the respective Lots, together with any exclusive easements or rights appurtenant to each Lot, shall not be separated, severed or separately conveyed, assigned, encumbered or otherwise transferred. All rights in the Common Area shall be conclusively deemed to be conveyed, assigned, transferred or encumbered with the respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

ARTICLE XII

ARCHITECTURAL CONTROL AND PLANNING COMMITTEES

Section 1. Planning Committees. There shall be a Planning Committee for the Association as described below.

(a) Composition.

- (i) Composition: Receiver Appointment. The Planning Committee shall consist of three (3) members. Except as provided in subsection (ii) below, the Receiver shall appoint the initial members of the Planning Committee, and all of their successors, until the first anniversary of the date of recording of this Amended Declaration. After such anniversary date, Receiver shall have the right to appoint a majority of the members of the Planning Committee so long as Receiver has jurisdiction over any Lot in the Project. The Planning Committee members appointed by the Receiver need not be members of the Association. Following their appointment, the Receiver shall notify the Owners of the names of the initial members of the Planning Committee.
- (ii) Appointment from Association. After one (1) year from the recordation of this Amended Declaration, the Board may appoint one (1) member to the Planning Committee of the Association. When the Receiver loses its right to appoint members to the Committee as provided in subsection (i) above, the Association shall appoint all members of the Planning Committee. Every person appointed to the Planning Committee by the Association shall be a Member of the Association who owns a Lot in the Project, except that at the time the Association has the power to appoint all members, one member may be an engineer, architect, or other expert trained in the review of construction plans and in inspections of Improvements who is not a Member.

(b) Term of Members. Each member of an Planning Committee shall hold office until such member resigns or is removed by the person or entity that would be entitled to appoint the position.

(c) Operations. The Planning Committee shall meet from time to time as necessary to perform its duties, and shall keep a record of all action taken at such meetings or otherwise. The vote or written consent of a majority of the membership of the Planning Committee shall constitute an act by the Planning Committee, unless a unanimous vote or consent is otherwise required. Unless authorized and paid for by Receiver during the period Receiver has the power to appoint the majority of the members of the Planning Committee, the members of the Planning Committee shall receive no compensation for services rendered.

Section 2. Powers and Duties of the Planning Committee. The Planning Committee shall have both the power and duty as needed to take the actions described in this Section.

(a) Rules. The Planning Committee may adopt, amend and repeal, from time to time and by unanimous vote, rules and regulations, to be known as "Planning Committee Rules," that interpret or implement the provisions of this Article and that provide for the designation of plans, specifications or other documents or things required as a prerequisite for consideration of proposed work.

(b) Records. The Planning Committee shall maintain with the corporate records of the Association, for inspection by any Owner, a copy of the Planning Committee Rules, as they may be adopted, amended or repealed, certified by any member of the Planning Committee.

(c) Action on Requests. The Planning Committee shall approve, conditionally approve, deny, or take any other appropriate action upon such proposals or plans as are submitted to it from time to time, in accordance with this Amended Declaration.

(d) Other Duties. The Planning Committee shall perform such other tasks as are given to it under this Amended Declaration.

(e) Notice of Violations. The Planning Committee shall notify the Association of any Improvement constructed, reconstructed, refinished, altered or maintained in violation of this Article. The Association may, upon thirty (30) days' written notice to the Owner of such non-complying Improvement, remove or cause to be removed or brought into conformity with this Amended Declaration, such Improvement, or require the Owner to do so. In either case, such Owner shall reimburse the Association for all expenses incurred in connection therewith, including reasonable attorneys' fees and costs.

Section 3. Matters Requiring Committee Approval. No Owner shall, without the approval of the Planning Committee: (i) construct, reconstruct, or recolor, refinish, alter, or maintain any part of the exterior of any Improvement, including the installation of solar energy systems and the addition or placement of accessory buildings; (ii) alter the topography or natural or existing surface drainage of any part of the Project; (iii) install any utility line, wire, or conduit on or over any Lot or Common Area; or (iv) install or alter the landscaping in any yard visible from a public road, the Common Area, the Private Drives or any Lot or Unit in the Project. Planning Committee approval is not required to plant flowers, bushes, and shrubs which do not significantly change the landscape design of the Lot. If such work does not constitute a material change in the design or color of Improvements already approved in accordance with this Amended Declaration, it shall be sufficient for an Owner to notify the Planning Committee in writing before commencing the work, and prior approval of the Planning Committee shall not be required unless the Planning Committee determines that such work does constitute a material change. The approval of the Planning Committee is not required for any such work done by or for the Receiver.

Section 4. Planning Committee Approval. The procedure and criteria for Planning Committee approval are as follows:

(a) Procedure.

- (i) Application. Any Owner proposing to do any work for which approval of the Planning Committee is required under Section 3 above entitled "Matters Requiring Committee Approval" shall apply to the Planning Committee by submitting in writing an application asking for Planning Committee approval and a short explanation of the work for which approval is requested and submitting, in duplicate, such plans and specifications for the proposed work as the Planning Committee may from time to time request, including, when deemed appropriate by the Planning Committee: (i) Floor plans; (ii) colors of exterior materials and colors, with samples if required by the Planning Committee; (iii) specifications; (iv) building plan or plans; (v) wall sections; (vi) exterior elevations; (vii) roof plan; (viii) landscaping plans; (ix) landscape plans including walkways, patios, and other hard surface Improvements; (x) fences, walls and gates; (xi) graphics and exterior furnishings; (xii) the Owner's proposed construction schedule; and (xiii) reports by a soils engineer, civil engineer, structural engineer, or any combination thereof. The Planning Committee may require that the submission of plans and specifications be accompanied by a fee to defray the actual cost of the review of plans and specifications, the amount of which shall be set by the Planning Committee from time to time.
- (ii) Form of Approval. The approval shall be in writing, and may be conditioned upon the submission by the Owner of such additional plans and specifications as the Planning Committee in its absolute discretion deems appropriate.
- (iii) Inaction. Applications made in accordance with this Section that are not acted upon within sixty (60) days from the date of submission shall be deemed approved. Any inaction following submission of plans for the proposed installation of solar energy systems shall not be deemed a willful avoidance or delay by the Association, as described in Section 714 of the California Civil Code.
- (iv) Return of Plans. If the application is approved, the Planning Committee shall return to the Owner one set of plans and specifications as finally approved and bearing the endorsement of the Planning Committee. If the Owner originally furnished only one (1) set of plans and specifications to the Planning Committee and the Planning Committee waived the requirement of such plans and specifications in duplicate, the Planning Committee may retain such plans and deliver to the Owner written notice of the approval of such plans referring to the specific plans and specifications by their dates, by the job numbers and other identification.

- (b) Criteria. The Planning Committee shall approve the work only in accordance with the criteria set forth in this subsection. PLANNING COMMITTEE APPROVAL DOES NOT ALLOW THE APPLICANT TO VIOLATE ANY PROVISION OF THIS DECLARATION NOR DOES IT IN ANY WAY EXEMPT THE APPLICANT FROM COMPLYING WITH BUILDING AND FIRE CODES, BUILDING PERMIT REQUIREMENTS AND OTHER GOVERNMENTAL REQUIREMENTS.
- (i) General. The Planning Committee shall not consent to any Improvements described in this Article unless the Owner has submitted the materials required by the Planning Committee.
- (ii) Findings Required. The Planning Committee shall not do or consent to any Improvements described in Section 3 above entitled "Matters Requiring Committee Approval" unless the Planning Committee finds that (i) the proposed work conforms to this Amended Declaration and that the applicant has obtained or shall obtain a building permit, if necessary, and conforms to all governmental requirements; (ii) general architectural considerations, including the character, scale, and quality of the design, its architectural relationship with the design of Improvements in the Project, and the building materials, colors, screening, exterior lighting and similar elements are incorporated into the design in order to ensure the compatibility of the proposed Improvement with the character of adjacent Buildings and Improvements; (iii) general site considerations, including site layout, open space and topography, orientation and location, vehicular access, circulation and parking, setbacks, height, walls, fences and similar elements have been designed to provide a desirable environment; and (iv) general landscape consideration, including the location, type, size, color, texture, and coverage of plant materials, provision for irrigation, maintenance, and protection of landscaped areas and similar elements have been incorporated to ensure visual relief, to complement Buildings and other structures and Improvements, and to provide an attractive environment for the use of residents and for the enhancement of property values in the Project. The Planning Committee may also condition any consent given for any Improvement within the Project with the requirement of review of such Improvement , after completion, by a qualified architect, engineer or other expert or consultant. IF THE PLANS ARE DISAPPROVED, THE PLANNING COMMITTEE SHALL MAKE WRITTEN FINDINGS AS TO THE REASONS FOR THE DISAPPROVAL.

Section 5. Completion and Inspection.

(a) Completion of Improvements; Extension. Upon receipt of the approval from the Planning Committee, the Owner shall, as soon as practicable, satisfy any conditions of such approval and diligently proceed with the commencement and completion of all work within two (2) years from the date of such approval. If there are substantive changes in the work following the original approval of the plans by the Planning Committee, Owners shall submit the changes for the Planning Committee's approval in the same manner as provided for obtaining approval for the original submission. The Planning Committee may extend the two (2) year period if: (i) the owner makes a written application to the Planning Committee setting forth the reason for the requested extension; and (ii) the Planning Committee finds that the Owner has pursued the work diligently and in good faith. If the Planning Committee approves the extension, the Planning Committee shall, in writing, notify the Owner of the length of the extension. If the Owner fails to complete the work within two (2) years and any applicable extension period, the approval shall be deemed revoked and the work may be treated as having been constructed in violation of this Article. Nothing in this subsection imposes a requirement upon the Planning Committee to extend such two (2) year period.

(b) Inspection of Improvements. Upon completion of the work, the Owner shall give a Notice of Completion of the Improvement, in writing, to the Planning Committee. The Planning Committee, directly or through its authorized representative, may inspect the work for compliance with the approved plans. The Planning Committee shall notify the Owner of any noncompliance, in writing, and require the remedy of the non-compliance, within sixty (60) days from receipt of Owner's Notice of Completion. If a Certificate of Noncompliance is not recorded as provided in Section 7 below entitled "Limitation Period for Noncompliance," the Improvement shall be deemed to have been completed in accordance with this Article. If a Certificate of Noncompliance is recorded within such sixty (60) day period, and the Owner fails to remedy such noncompliance within sixty (60) days after receipt of such notice, the Planning Committee may act in accordance with the provisions of Section 6 below entitled "Noncompliance."

Section 6. Noncompliance. If Improvements are installed that are not in compliance with this Declaration, or if an Owner fails to commence or complete Improvements required by this Amended Declaration or the Association, the Association may remove the Improvement, remedy the noncompliance, complete the required Improvement, or require the Owner to do so. In any such case, such Owner shall reimburse the Association for all expenses incurred in connection therewith, including reasonable attorneys' fees and cost whether or not an action is instituted. No Improvement shall be removed from, completed on, or a noncompliance remedied on, a Lot without either the consent of the Owner of the Lot or an order obtained from a court of competent jurisdiction.

Section 7. Limitation Period for Noncompliance.

(a) Periods for Actions to be Filed. Any work completed without compliance with this Article shall be deemed to have been done in compliance with this Article if, within one (1) year after completion of such work: (i) no legal action is commenced to enforce the provisions of this Article against such work; and (ii) the Association does not record a Certificate of Noncompliance ("Certificate of Noncompliance") as provided in subsection (b) of this Section. If the Association does record a Certificate of Noncompliance, legal action to enforce this Article must be commenced and a notice of pendency of action recorded within two (2) years of such recording or the Certificate

expires and is of no further force and effect and no action may thereafter be maintained to enforce compliance of the work.

(b) Certificate of Noncompliance. The Certificate of Noncompliance referred to in subsection (a) above shall give a legal description of the Lot affected, state the name of the record Owner, state the date of completion, and describe generally the nature of the noncompliance, including any failure or omission of such Owner to commence or complete a required Improvement, and any action of such Owner that is inconsistent with this Amended Declaration. It shall be signed by an officer or other authorized person for the Association. The Association's right to execute and record such Certificate is not subject to arbitration or alternative dispute resolution as may otherwise be allowed or required under Sections 1 and 2 of Article XVI or any other provision of this Amended Declaration.

Section 8. Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Association by any Owner, and upon payment to the Association of a reasonable fee fixed by the Association to cover costs, the Association shall provide such owner with an estoppel certificate executed by an officer of the Association and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date of the certificate, either: (i) all Improvements and other work made or done on such Lot by the Owner comply with this Amended Declaration; or (ii) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements and work, and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any secured party, shall be entitled to rely on such certificate with respect to the matters therein set forth, such matters being conclusive as between Declarant, the Association, and all Owners, and such purchaser or secured party.

Section 9. Limitation of Planning Committee Liability. NEITHER THE PLANNING COMMITTEE, THE ASSOCIATION, NOR ANY MEMBER OF THE PLANNING COMMITTEE SHALL BE LIABLE TO THE ASSOCIATION, ANY OWNER OR ANY OTHER PERSON FOR ANY DAMAGE, LOSS OR PREJUDICE SUFFERED OR CLAIMED ON ACCOUNT OF: (A) THE APPROVAL OF ANY PLANS, DRAWINGS, OR SPECIFICATIONS, WHETHER OR NOT DEFECTIVE; (B) THE CONSTRUCTION OR PERFORMANCE OF ANY WORK, WHETHER OR NOT PURSUANT TO APPROVED PLANS, DRAWINGS AND SPECIFICATIONS; (C) THE DEVELOPMENT, OR MANNER OF DEVELOPMENT, OF ANY PROPERTY WITHIN THE PROJECT; (D) THE EXECUTION AND RECORDATION OF AN ESTOPPEL CERTIFICATE, WHETHER OR NOT THE FACTS STATED THEREIN ARE CORRECT, PROVIDED, HOWEVER, THAT THE OFFICER EXECUTING THIS CERTIFICATE, WITH THE ACTUAL KNOWLEDGE POSSESSED BY SUCH OFFICER, HAS ACTED IN GOOD FAITH; OR (E) THE FAILURE OF ANY PERSON CONSTRUCTING IMPROVEMENTS TO OBTAIN CORRECT PROPERTY ZONING, OBTAIN A BUILDING PERMIT, OR TO CONFORM TO BUILDING, OR SAFETY, OR HEALTH LAWS, ORDINANCES OR REGULATIONS. IN ANY CASE, THE PLANNING COMMITTEE OR ANY MEMBER OF THE PLANNING COMMITTEE MAY CONSULT WITH OR HEAR ANY OWNER WITH RESPECT TO ANY PLANS, DRAWINGS OR SPECIFICATIONS, OR ANY OTHER PROPOSAL SUBMITTED TO THE PLANNING COMMITTEE.

Section 10. Owner's Liability. Any Owner who alters any portion of the Project, or causes any alteration to the Project, shall be responsible and liable for any damage to Common Area or other Lots resulting from such alteration, and shall be responsible and liable for any violation of any law or governmental regulation resulting from such alteration.

Section 11. Mechanics' Liens. No Owner shall permit any mechanics' lien to arise, in connection with any work initiated by such Owner, upon the Common Area or any other Lot not owned by such Owner. Should such a lien arise, the Owner who initiated such work shall immediately take all necessary steps to remove such lien, including, if necessary, the obtaining of a bond, and shall indemnify the Association and all Owners against, and hold them harmless from, such lien and any costs incurred in removing such lien, including reasonable attorneys' fees. If any Owner fails to promptly pay all such costs upon the written demand of the Association, the Association may levy a Reimbursement Assessment against such Owner for such amounts.

Section 12. Compensation of Planning Committee Members. No member of the Planning Committee may be compensated for such member's duties except (i) the Receiver can compensate its appointees and (ii) the Association may compensate an "expert" appointee who is not an Owner. An "expert" appointee shall be an architect or person with similar skills. Planning Committee members may be reimbursed their expenses incurred in serving as the Planning Committee.

ARTICLE XIII

RIGHTS OF INSTITUTIONAL HOLDERS OF MORTGAGES

The following provisions are for the benefit of Institutional Holders, Insurers and Guarantors of first Mortgages on Lots within the Covered Property and shall apply notwithstanding any provision to the contrary set forth elsewhere in this Amended Declaration or the Bylaws. These provisions apply only to "Eligible Holders" as defined below.

Section 1. Notices of Actions. Any Institutional Holder, Insurer or Guarantor of a first Mortgage who provides written request to the Association, stating the name and address of such Holder, Insurer or Guarantor and the address or legal description of the particular Lot encumbered (thus becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) Any default by the Owner of such Lot in the performance of such Owner's obligations under the Amended Declaration or Bylaws which is not cured within sixty (60) days from the date of such default;
- (b) Any condemnation proceedings affecting the Project;
- (c) Any substantial damage to or destruction of any significant portion of the Common Area;
- (d) Any proposed termination of the Association;
- (e) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (f) Any proposed action which would require the consent of Eligible Holders as further described in this Article.

Section 2. Rights of Institutional Holders Upon Foreclosure. Any Institutional Holder of a first Mortgage on a Lot which comes into possession of that Lot pursuant to judicial foreclosure or foreclosure by power of sale shall:

- (a) Acquire title in such Lot free of any claims for unpaid assessments or charges against the Lot accruing prior to the Institutional Holder's acquisition of title;
- (b) Not be obligated to cure any breach of this Amended Declaration which is noncurable or of a type which is not practical or feasible to cure and which took place prior to acquisition of title to the Lot by the Institutional Holder; and
- (c) Be exempt from any right of first refusal contained in this Amended Declaration, or any amendment hereto, and such right of first refusal shall not impair the rights of an Institutional

Holder to (i) foreclose or acquire title to a Lot pursuant to the remedies provided in the Mortgage, (ii) accept an assignment in lieu of foreclosure in the event of default by the mortgagor, or (iii) sell or lease a Lot acquired by the Institutional Holder.

Section 3. Consent of Institutional Holders. The consent of Institutional Holders, Insurers or Guarantors shall be required in order to take the following actions with respect to the Association and rights and obligations of Members and Institutional Holders:

(a) Any restoration or repair of the Common Area after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Amended Declaration and the original plans and specifications unless the approval of the Eligible Holders of first encumbrances on Lots to which at least fifty-one percent (51%) of the votes of the Owners of such Lots, subject to encumbrances held by such Eligible Holders are allocated, is obtained;

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first encumbrances on Lots to which at least fifty-one percent (51%) of the votes of Owners of such Lots, subject to first encumbrances held by such Eligible Holders, are allocated;

(c) Unless at least seventy-five percent (75%) of the Owners have given their prior written approval, the Association and the Owners shall not be entitled to: (i) change the pro rata interest or obligations of any Lot for the purposes of levying assessments and charges or allocating distributions of hazard insurance proceeds or condemnation awards; (ii) partition or subdivide all or any part of the Common Area of the Project; (iii) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this provision); (iv) use hazard insurance proceeds for losses to any portion of the Common Area for other than the repair, replacement or reconstruction of such improvements, except as provided by statute.

Section 4. Amendments to Documents. The following provisions contained in this Section do not apply to amendments to the Bylaws or this Amended Declaration or termination of the Association made as a result of destruction, damage or condemnation pursuant to subsections (a) and (b) of Section 3 above.

(a) The consent of one hundred percent (100%) of the voting power of the Association and the approval of the Eligible Holders of first encumbrances on Lots to which at least sixty-seven percent (67%) of the votes of Members owning Lots subject to such encumbrances pertain, and the City, shall be required to terminate the Association.

(b) The consent of at least sixty-seven percent (67%) of the Members and the approval of Eligible Holders of first encumbrances on Lots to which at least fifty-one percent (51%) of the votes of members whose Lots are subject to such an encumbrance pertain, shall be required in order to materially amend any provision of the Governing Documents, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following: (i) voting;

(ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) rights to use the Common Area; (vi) responsibility for maintenance and repair of the Project; (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Association; (viii) boundaries of any Lot or the Common Area; (ix) leasing of Units; (x) imposition of any right of first refusal or similar restrictions of the right of any Owner to sell, transfer or otherwise convey his Lot; (xi) establishment of self-management by the Association where professional management has previously been required or for a Project consisting of fifty (50) or more Lots; or (xii) any provisions included in the Governing Documents which are for the express benefit of Institutional Holders, Guarantors or Insurers of first encumbrances on Lots.

Section 5. Additional Rights of Institutional Holders. Any Institutional Holder of a Mortgage on a Lot in the Project will, upon request, be entitled to: (a) inspect the Governing Documents, the books and records and the financial statements of the Association during normal business hours; (b) for Projects consisting of fifty (50) or more Lots, receive an annual audited financial statement of the Association within one hundred twenty (120) days following the end of any fiscal year of the Association; (c) if no audited statement is available for Projects consisting of fewer than fifty (50) Lots, an Institutional Holder may have an audited statement prepared at its own expense; (d) receive written notice of all meetings of Owners and be permitted to designate a representative to attend all such meetings; and (e) may, jointly or singly, pay taxes or other charges which are in default and which may become a charge against any Common Area property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the Common Area on the lapse of such a policy, and Institutional Holders making such payments shall be owed immediate reimbursement therefor from the Association.

Section 6. Information. Any Institutional Holder is authorized to furnish information to the Board concerning the status of any loan encumbering a Lot.

Section 7. Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions contained in this Amended Declaration, nor the enforcement of any lien provisions created herein, shall affect, impair, defeat or render invalid the lien of any first Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title to a Lot is derived through foreclosure, trustee's sale or otherwise.

Section 8. Insurance. The Owners and the Association shall procure and maintain fire and liability insurance and such other insurance as may from time to time be required by Institutional Holders. All such insurance shall contain loss payable clauses naming the Institutional Holders which encumber a Lot by a first Mortgage, as their interests may appear.

Section 9. Priority on Distribution of Proceeds. No Owner or any other party shall have priority over the Institutional Holder of the Mortgage on his Lot in the case of a distribution of insurance proceeds or condemnation awards for losses to or a taking of the Lot or Common Area.

Section 10. Special FNMA-FHLMC Provisions. So long as required by The Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation

("FHLMC"), the following provisions shall apply in addition to and not in lieu of the foregoing provisions contained in this Article.

(a) Unless two-thirds (2/3) of the Institutional Holders of first encumbrances or Owners of Lots subject to such encumbrances give their consent, the Association shall not: (i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area which the Association owns, directly or indirectly; (ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner; (iii) by act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of the Project and the Common Area; (iv) fail to maintain appropriate insurance as required by this Amended Declaration; or (v) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such property.

(b) The Association agrees to give written notice to the FNMA or FHLMC or its designated representative of any loss to, or taking of, the Common Area if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00).

(c) If any loan secured by a Mortgage encumbering a Lot is owned by the FNMA or FHLMC, its successors or assigns or is tendered to the FNMA or FHLMC, its successors or assigns for purchase, the Association and the Owners shall obtain and maintain in full force and effect all insurance coverages which may at any time be required by the FNMA or FHLMC, its successors or assigns and shall otherwise comply in all respects with all insurance requirements of the FNMA or FHLMC which may be in effect at any time.

Section 11. Consent. An Eligible Holder which receives a written request to consent to an amendment or to any other action to which the Eligible Holders' consent is required or permitted by this Amended Declaration, and which does not respond negatively within thirty (30) days after having received proper notice of the proposed amendment and request, provided the notice was delivered by certified or registered mail with a return receipt requested, shall be deemed to have consented to the amendment or other action.

ARTICLE XIV

EMINENT DOMAIN

Section 1. Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Common Area.

Section 2. Representation by Association in Condemnation Proceeding. In the event of a taking, the Association shall, subject to the right of all Institutional Holders who have requested the right to join the Association in the proceedings, represent all of the Members in an action to recover all awards. No Member shall challenge the good faith exercise of the discretion of the Board's actions on behalf of the Association, in fulfilling its duties under this Article. The Association is further designated as the sole representative of the Members, in all aspects of condemnation proceedings not specifically covered herein.

Section 3. Award for Common Area. In the event of a taking of all or any part of the Common Area, the Association shall distribute the award from the taking authority according to the provisions of this Section after deducting therefrom fees and expenses related to the condemnation proceeding including, without limitation, fees for attorneys and appraisers and court costs. In the event that the taking is by judgment of condemnation and said judgment apportions the award among the Owners and their respective Institutional Holders, the Association shall distribute the amount remaining after such deductions among such Owners and Institutional Holders on the allocation basis set forth in the judgment. In the event that the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the Association shall distribute the award among the Owners on a pro rata basis, with each Owner receiving an equal share of such award for each Lot owned within the Project.

Section 4. Inverse Condemnation. The Association is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

Section 5. Notice to Members. The Association, immediately upon having knowledge of any taking or threat thereof, shall promptly notify all Members.

ARTICLE XV

EASEMENTS

Section 1. Utility Easements and Reciprocal Access Easements in Private Drives. The private ingress and egress and drainage easements as depicted and reserved on the recorded subdivision maps for Tracts 10141 and 10142 shall run with the land in perpetuity for the use and benefit of the present or future Owners of the Lots affected by such easements.

Article III, Section 3.05 of the Original Declaration recorded January 15, 1981 as Instrument No. 81-009947, in the Official Records of San Bernardino County, California, further provided as follows:

"Declarant has established reciprocal easements, rights-of-way, parcels or strips of land in, on, over or under the individual lots as shown on the map of Tract 10141 for the purposes of providing the following:

- (i) Private driveways, walks, access ways, parkways;
- (ii) Parking carports for the use of owners and their respective tenants;
- (iii) Underground lines, cables, wires, conduits or other devices for the transmission of electricity for lighting, heating, power, telephone and other purposes;
- (iv) Sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas line or pipes;
- (v) Any similar improvements or facilities."

Declarant and the undersigned Owners agree that it was the intent of the original Declarant that the above-described easements would also be applicable to Tract 10142 upon annexation of Tract 10142 to the Project. In fact, Section 5.01 of the Original Declaration provided as follows:

"5.01 Member's Easements of Enjoyment. Subject to the provisions of Section 5.02 below, every member shall have a right and easement of enjoyment in and to the use of the common areas and private driveways and roadways as set forth on the record maps for Tract 10141 and any additional annexed property (*emphasis added*).

5.02: Extent of Member's Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

- a) The right of the association, in accordance with its Articles and By-Laws, to suspend the voting rights of any member for any period during which any assessment against his lot remains unpaid and delinquent, and

for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

- b) The right of the association to establish uniform rules and regulations pertaining to the use of the common areas, driveways and private roadways as depicted on the record map for Tract 10141;
- c) The right of the association to limit the number of guests of members using any facilities provided for the enjoyment of all members and their tenants respectively."

The utility easements and reciprocal access easements described above, as originally described in Sections 3.05, 5.01 and 5.02 of the Original Declaration recorded January 15, 1981 as Instrument No. 81-009947, in the Official Records of San Bernardino County, California, are therefore incorporated herein and declared to be applicable to the "Private Easements for Ingress and Egress" (defined herein as the "Private Drives") as depicted on the recorded subdivision maps for both Tract 10141 and Tract 10142, and shall be reciprocal perpetual easements between all Lots in the Project for the benefit of the Lots and the Owners thereof, and for their families, guests, invitees and Tenants, for all of the purposes and uses described herein.

Section 2. Common Area Easements. In accordance with Sections 5.01 and 5.02 of the Original Declaration as quoted in Section 1 above, each Lot within the Project is hereby declared to have an easement over all of the Common Area for the benefit of the Lots, the Owners thereof, and for their families, guests, invitees and Tenants, for all of the purposes and uses described herein, including ingress, egress, and support, if necessary, over and through the Common Area consisting of Lot A of Tract 10141 and Lot A of Tract 10142, both lots having been reserved for recreational purposes on the recorded subdivision maps for such tracts.

Section 3. Establishment of Easements. The easements described in this Amended Declaration shall be deemed established upon the recordation of this Amended Declaration, and shall thereafter be considered covenants running with the land for the use and benefit of all of the Lots and the Common Area, superior to all other encumbrances affecting any portion of the Project. Individual conveyances of Lots may, but shall not be required to, set forth such easements.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Enforcement. Subject to the prefiling and other requirements of California Civil Code Section 1354 ("Section 1354"), the Association and each 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; provided, however, that with respect to assessment liens, the Association shall have the exclusive right of enforcement. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

Unless the applicable time limitation for commencing the action would run within one hundred twenty (120) days, prior to the filing of a civil action by either the Association or an Owner solely for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, other than Association Assessments, not in excess of Five Thousand Dollars (\$5,000.00), related to the enforcement of the Governing Documents, the parties shall endeavor, as provided by Section 1354, to submit their dispute to a form of alternative dispute resolution such as mediation or arbitration and shall otherwise comply with Section 1354. Any Request for Resolution sent to an Owner pursuant to Section 1354 (b) shall include a copy of Section 1354.

Members of the Association shall annually be provided a summary of the provisions of Section 1354, which specifically references said Code Section. The summary shall be provided either at the time the Budget is distributed to the Members or in any general mailing to the Members addressed to each Member's address appearing on the books of the Association, and such summary shall also include the following language:

"Failure by any Member to comply with the prefiling requirements of Section 1354 of the Civil Code may result in the loss of that Member's rights to sue the Association or another Member regarding enforcement of the Governing Documents."

In accordance with California Civil Code Section 1366.3 ("Section 1366.3"), the exception for disputes related to Association Assessments as set forth above and in Section 1354 (b) shall not apply if, in a dispute between an Owner and the Association regarding the Assessments imposed by the Association, the Owner chooses to pay in full to the Association all of the charges listed below in paragraphs (a) through (d), inclusive, and states by written notice that the amount is paid under protest, and the written notice is mailed by certified mail not more than thirty (30) days after the recording of the Notice of Delinquent Assessment in accordance with Civil Code Section 1367.1 and Article VI, Section 14 (b) of this Amended Declaration. In those instances, the Association shall inform the Owner that the owner may resolve the dispute through alternative dispute resolution as set forth in California Civil Code Section 1354, civil action, and any other procedures to resolve the dispute that may be available through the Association. The charges paid under protest shall include the following:

- (a) The amount of the Assessment in dispute;
- (b) Late charges;
- (c) Interest;
- (d) All fees and costs associated with the preparation and filing of a Notice of Delinquent Assessment, including mailing costs, and including attorney's fees not to exceed Four Hundred Twenty-Five Dollars (\$425.00).

The right of any Owner to utilize alternative dispute resolution under Civil Code Section 1366.3 in a matter involving Association Assessments may not be exercised more than two times in any single calendar year, and not more than three times within any five calendar years. Any Owner and the Association may, however, upon mutual agreement, enter into alternative dispute resolution for a number of times in excess of the limits set forth above. An Owner may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Association on the total amount paid under paragraphs (a) through (d) above, inclusive, if it is determined through alternative dispute resolution that the Assessment levied by the Association was not correctly levied.

Section 2. Civil Actions by Association/Board Authority. The Board is authorized, but not required, to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to (i) enforcement of the Governing Documents, (ii) damage to the Common Areas, (iii) damage to the Separate Interests which the Association is obligated to repair or maintain, or (iv) damage to the Separate Interests which arises out of, or is integrally related to, damage to the Common Areas or Separate Interests that the Association is obligated to maintain or repair, and to do any act reasonably necessary to resolve any civil claim or action through alternative dispute resolution proceedings such as mediation, binding or non-binding arbitration proceedings.

Section 3. Notice of Significant Legal Proceedings. The Board shall provide the Members with at least one hundred twenty (120) days' prior written notice of the Association's intention to institute legal proceedings. The notice shall describe the purpose of the proceeding, the parties to the proceeding, the anticipated cost to the Association (including attorney fees) in processing the proceeding, the source of funds to process the proceedings (reserves or special or regular assessments), and suggested information that should be disclosed to third parties, such as prospective purchasers and lenders, while the proceeding is being prosecuted. For purposes herein, "significant legal proceeding" shall mean any legal proceeding in which it reasonably could be anticipated that any of the following events could occur:

- (a) the levy of a Special Assessment to fund all or any portion of the proceeding;
- (b) the expenditure of funds from the Association's reserves in connection with the proceeding in an amount in excess of five percent (5%) of the then current reserves;

(c) the amount of the claim is in excess of Five Thousand Dollars (\$5,000.00); or

(d) a material adverse effect on the ability to sell and/or refinance the Lots within the Project during the period the proceeding is being prosecuted.

Notwithstanding the foregoing, the notice shall not be required to commence and pursue any action to collect delinquent assessments as described in Section 14 of Article VI. Furthermore, if the Board in good faith determines that there is insufficient time to provide prior notice to the Members as required herein before the expiration of any applicable statute of limitations or before the loss of any other significant right of the Association, the Board may take the necessary steps to commence the proceeding to preserve the rights of the Association, provided that as soon as is reasonably practical thereafter, and not later than thirty (30) days following the commencement of the proceeding, the Board shall provide the Members with notice as required herein.

Section 4. Severability of Covenants. Invalidity of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 5. Term. The covenants and restrictions of this Amended Declaration shall run with and bind the Covered Property and the Project, and shall inure to the benefit of and be enforceable by the Association or the Owners, their legal representatives, heirs, successors and assigns until December 31, 2054, after which date they shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by seventy-five percent (75%) of the then Owners and their respective Institutional Holders has been recorded (i) within the year preceding the end of the original thirty (30) year period, or (ii) within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate this Amended Declaration. Reciprocal easements over the Private Drives as described herein will not be subject to the above termination date and will run with the land in perpetuity.

Section 6. Construction. The provisions of this Amended Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Common Interest Development and for the maintenance of the community recreational facilities, if any, and Common Areas. In case of any conflict between this Amended Declaration and the Articles or Bylaws, this Amended Declaration shall control. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 7. Amendments. Subject to the rights of Institutional Holders described in Article XIII above, this Amended Declaration may be amended only by the affirmative assent or vote of a majority of the voting power of the Association; provided, however, that the percentage of voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

In the event that a majority of votes required cannot be obtained in favor of an amendment, the Association, or any Owner, may petition the Superior Court of the County for an order reducing the

percentage of affirmative votes required. The filing of any such petition shall be in compliance with the procedures set forth in California Civil Code Section 1356.

This amendment provision shall not be amended to allow amendments by the assent or vote of less than the prescribed percentage of voting power required for amendments hereof except by court order as set forth above. Subject to Section 8 below, an amendment or modification shall be effective when executed and acknowledged by the Secretary of the Association, who shall certify that the amendment or modification has been approved as provided herein, and recorded in the official records of the County.

Section 8. City Consent to Amendment or Termination. The City shall be given prior written notice of any proposed amendment to or termination of this Declaration. Notice shall be given to the City by mailing a copy of the precise language of the proposed amendment or termination to the City, in care of the City Manager, with a copy to the Planning Director of the City, together with an explanation of the proposed change in general terms and a notice in the form described below. The City shall have an opportunity to review and comment upon any such proposed amendment or termination, and the right to veto any such proposed amendment not approved, for a period of ninety (90) days from receipt of such proposed amendment or termination document. If the City fails to respond within ninety (90) days, the proposed changes, amendment or termination shall be deemed approved by the City.

Any amendment or termination document submitted to the City as set forth above shall be accompanied by or contain the following notice:

NOTICE TO THE CITY OF REDLANDS: YOU ARE HEREBY NOTIFIED THAT IF THE CITY HAS NOT DISAPPROVED THE ENCLOSED AMENDMENT WITHIN NINETY (90) DAYS OF THE DATE OF RECEIPT BY THE CITY MANAGER, SUCH AMENDMENT SHALL BE DEEMED APPROVED BY THE CITY (PURSUANT TO SECTION 8 OF ARTICLE XVI OF THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOUNTAIN VIEW APARTMENTS RECORDED ON _____ IN THE OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA).

Any proposed amendment or termination document disapproved or vetoed by the City shall not be recorded and, if recorded without the City's written consent, shall be null and void.

Section 9. Dissolution. So long as there is any Lot or Common Area for which the Association is obligated to provide management, maintenance, preservation or control, the Association may be dissolved or may transfer all or substantially all of its assets only upon the approval of one hundred percent (100%) of the Members.

Section 10. Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the Planning Committee, any other committees of the Association or any member of such

Board or committee shall be liable to any Member of the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties.

Section 11. Information to Owners and Disclosure to Prospective Purchasers.

(a) **Information Provided by Association to Owners.** Within ten (10) days after the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (i) whether, to the knowledge of the Association, the Owner or the Owner's Separate Interest is in violation of any of the provisions of this Amended Declaration, the Articles, Bylaws, or Association Rules; (ii) the amount of Regular and Special Assessments, including installment payments, paid by the Owner during the fiscal year the request is received; (iii) the amount of any Assessments levied against the Owner's Separate Interest that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that as of the date of the statement are or may be made a lien against the Owner's Separate Interest as provided by this Amended Declaration, the Articles, Bylaws, or Association Rules; and (iv) any change in the Association's current Regular and Special Assessments and fees approved by the Board but not yet due and payable as of the date of the disclosure. In addition, the Association shall, within ten (10) days after the mailing or delivery of a written request by any Owner, provide copies of any Association documents requested by the Owner. The Association may charge a fee for this service, which shall not exceed its reasonable cost to prepare and reproduce such items.

(b) **Disclosure Information Provided by Owner to Prospective Purchaser.** Each Owner of a Separate Interest shall, as soon as practicable before transfer of title to the Separate Interest or execution of a real property sales contract therefor, provide the following to the prospective purchaser:

- (i) A copy of the Governing Documents;
- (ii) If there is a restriction in the Governing Documents limiting the occupancy, residency or use of a Separate Interest on the basis of age in a manner different from that provided in Section 51.3 of the California Civil Code, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and specifying the applicable provisions of Section 51.3;
- (iii) A copy of the most recent documents distributed to the Members pursuant to California Civil Code Section 1365;
- (iv) A true statement in writing from an authorized representative of the Association as described in subsection (a) of this Section.

(c) Transfer Costs. The Association shall not impose or collect any assessment, penalty, or fee in connection with the transfer of title or any other interest except the Association's actual costs to change its records and those fees authorized by subsection (a) above.

(d) Liability for Failure to Disclose. The provisions of this Section are in accordance with California Civil Code Section 1368, which provides that any person or entity who willfully violates Section 1368 shall be liable to the purchaser of a Separate Interest which is subject to this Section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed Five Hundred Dollars (\$500.00). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

(e) Valid Title. Nothing in this Section affects the validity of title to real property transferred in violation of this Section.

(f) Other Disclosure Requirements. The requirements contained in this Section are in addition to the requirements of California Civil Code Sections 1133 and 1134 which may impose additional disclosure requirements upon a transferring Owner.

Section 12. Violation of Declaration. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, right or reservation contained in this Amended Declaration is violated is hereby 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 the Planning Committee and the Association. Such remedy shall be deemed cumulative and not exclusive.

Section 13. Statutory References; Fixed Amounts. References in this Amended Declaration or the Bylaws to specific statutes or provisions of California law shall include those statutes or provisions as they may be modified or amended from time to time. References in this Amended Declaration or the Bylaws to specific dollar amounts or percentage rates shall be modified from time to time as the dollar figures or percentage rates in statutes upon which they are based are modified. Any modification of this Amended Declaration or the Bylaws resulting from the application of this Section may be effected by a validly adopted resolution of the Board, without utilizing the formal amendment procedures contained herein or in the Bylaws.

Section 14. Attorneys' Fees. In the event of any controversy, claim or dispute arising out of or relating to this Amended Declaration or the interpretation or breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs. Upon motion by any party for such attorney's fees and costs to be awarded to the prevailing party in any civil action to enforce the covenants and restrictions contained in this Amended Declaration, the court, in determining the amount of the award, may consider a party's refusal to participate in alternative dispute resolution prior to the filing of the action as required by Civil Code Section 1354.

Section 15. City Enforcement and Easement. Due to the City's desire that this Declaration be enforced in the future to maintain the attractiveness of the Project and to keep it a place where well-maintained quality housing is provided, the provisions of this Declaration shall be enforceable

by the Association as set forth above, and by the City, as set forth below. The City shall be considered an interest holder and a third party beneficiary to this Declaration, which interest shall give the City the right, by action at law or in equity, to enforce all provisions of this Declaration. If the Project is not maintained in the condition required by this Declaration, the City and its employees, agents, legal counsel or contractors, shall have the right but not the obligation (if the City has given at least ten (10) days' written notice to the Association and any affected Owner, and if after receiving the notice, the Association and/or any affected Owner has failed to take action to remedy the defects specified by the City) to enter into the Project to compel compliance with the provisions of this Declaration. Any cost, expenses and expert and attorneys' fees incurred by the City relating to the curing of any default by the Association or any Owner in the observance or enforcement of this Declaration, including all costs involved in maintaining, repairing, replacing or otherwise performing work on or providing materials to the Project, whether the work or materials is furnished by the City or by private contractors designated by the City, shall be promptly reimbursed to the City by the Association or the applicable Owner. The City shall have the right to levy a Reimbursement Assessment against any defaulting Lot and its Owner for costs incurred but unreimbursed to the City. The City shall have the power to take such other actions on behalf of the Association as may be necessary if the Association is in default of any of its responsibilities under the terms of this Declaration. The City's actions shall be deemed to be the actions of the Association as may be necessary to enforce compliance with the provisions of this Declaration. No failure by the City to enforce this Declaration as to a default pertaining to the maintenance of the project shall be deemed to be a waiver of the right or power of the City to enforce that same default, or a different default, at any later time. In the event that the City is the prevailing party in an enforcement action under this Declaration, the City shall have the right to collect reasonable attorneys' fees, costs and expenses associated with any action or proceeding. In the event of any conflict between any provision contained in this Declaration and any ordinance, law, or the general police power of the City, the latter shall prevail.

The City shall have a perpetual easement for ingress and egress upon and over the Project for the purposes of enforcing any maintenance required by the provisions of this Declaration or of the City's ordinances, codes, laws or statutes. The City is hereby granted the express power to enforce all laws and ordinances of the State of California and/or the City in the Project. Nothing within this Declaration, however, shall be construed as imposing any obligation upon or requiring the City to enforce any of the provisions of this Declaration.

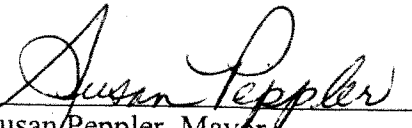
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Amended Declaration this 6th day of January, 2004.

DECLARANT:

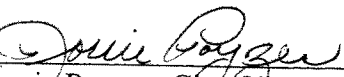
STEVEN M. SPEIER, RECEIVER

APPROVED AS TO FORM:

The City of Redlands,
A Municipal Corporation

By: 
Susan Peppler, Mayor

Attest:

By: 
Lorrie Poyzer, City Clerk

Date: January 6, 2004

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS
CITY OF REDLANDS)

By the authority granted under Chapter 4, Article 3, Section 1181, of the California Civil Code, and Chapter 2, Division 3, Section 40814, of the California Government Code, on January 6, 2004, before me, Beatrice Sanchez, Deputy City Clerk, on behalf of Lorrie Poyzer, City Clerk of the City of Redlands, California, personally appeared Susan Pepler and Lorrie Poyzer { X } personally known to me - or - { } proved to me on the basis of satisfactory evidence to be the persons whose names) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.



WITNESS my hand and official seal.

LORRIE POYZER, CITY CLERK

By: Beatrice Sanchez
Beatrice Sanchez, Deputy City Clerk
(909)798-7531

~~~~~  
**CAPACITY CLAIMED BY SIGNER(S)**

{ } Individual(s) signing for oneself/themselves

{ } Corporate Officer(s)

Title(s) \_\_\_\_\_

Company \_\_\_\_\_

{ } Partner(s)

Partnership \_\_\_\_\_

{ } Attorney-In-Fact

Principal(s) \_\_\_\_\_

{ } Trustee(s)

Trust \_\_\_\_\_

{ x } Other

Title(s): Mayor and City Clerk

Entity Represented: City of Redlands, a municipal corporation

~~~~~  
THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:
Title or Type of Document: Amended and Restated Declaration of Covenants, Conditions,
Restrictions and Easements for Mountain View Apartments
Date of Document: January 6, 2004
Signer(s) Other Than Named Above: Steven M. Speier, Receiver

EXHIBIT "A"

LEGAL DESCRIPTION OF THE COVERED PROPERTY

That certain real property located in the City of Redlands, County of San Bernardino, State of California, more particularly described as follows:

Lots 1 through 35, inclusive, and Lot "A" of Tract 10141, as shown by Map on file in Book 153, Pages 32 through 34, inclusive, of Maps, Records of San Bernardino County, California.

Lots 1 through 29, inclusive, and Lot "A" of Tract 10142, as shown by Map on file in Book 155, Pages 13 through 15, inclusive, of Maps, Records of San Bernardino County, California.

EXHIBIT "B"

CONSENT OF OWNERS AND RECEIVER

The undersigned Owners (and/or the Receiver as to those Lots in Receivership) hereby consent to the foregoing Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Mountain View Apartments:

Owner of Lot 1 of Tract 10141:

Property Address: 1250 Tribune St.

Owner of Lot 2 of Tract 10141:

Property Address: 416 Lugonia Ave.

Owner of Lot 3 of Tract 10141:

Property Address: 426 Lugonia Ave.

Owner of Lot 4 of Tract 10141:

Property Address: 502 Lugonia Ave.

Owner of Lot 5 of Tract 10141:

Property Address: 512 Lugonia Ave.

Owner of Lot 6 of Tract 10141:

Property Address: 511 Courier Ave.

Owner of Lot 7 of Tract 10141:

Property Address: 1214 Post St.

Owner of Lot 8 of Tract 10141:

Property Address: 1208 Post St.

Owner of Lot 9 of Tract 10141:

Property Address: 1202 Post St.

Owner of Lot 10 of Tract 10141:

Property Address: 1136 Post St.

Owner of Lot 11 of Tract 10141:
Property Address: 1130 Post St.

Owner of Lot 12 of Tract 10141:
Property Address: 1124 Post St.

Owner of Lot 13 of Tract 10141:
Property Address: 1118 Post St.

Owner of Lot 14 of Tract 10141:
Property Address: 1112 Post St.

Owner of Lot 15 of Tract 10141:
Property Address: 1106 Post St.

Owner of Lot 16 of Tract 10141:
Property Address: 511 Brockton Ave.

Owner of Lot 17 of Tract 10141:
Property Address: 1103 Post St.

Owner of Lot 18 of Tract 10141:
Property Address: 417 Brockton Ave.

Owner of Lot 19 of Tract 10141:
Property Address: 1102 Tribune St.

Owner of Lot 20 of Tract 10141:
Property Address: 1109 Post St.

Owner of Lot 21 of Tract 10141:
Property Address: 1121 Post St.

Owner of Lot 22 of Tract 10141:
Property Address: 1127 Post St.

Owner of Lot 23 of Tract 10141:
Property Address: 1133 Post St.

Owner of Lot 24 of Tract 10141:
Property Address: 1201 Post St.

Owner of Lot 25 of Tract 10141:
Property Address: 1207 Post St.

Owner of Lot 26 of Tract 10141:
Property Address: 1213 Post St.

Owner of Lot 27 of Tract 10141:
Property Address: 1220 Tribune St.

Owner of Lot 28 of Tract 10141:
Property Address: 1210 Tribune St.

Owner of Lot 29 of Tract 10141:
Property Address: 1200 Tribune St.

Owner of Lot 30 of Tract 10141:
Property Address: 1144 Tribune St.

Owner of Lot 31 of Tract 10141:
Property Address: 1140 Tribune St.

Owner of Lot 32 of Tract 10141:
Property Address: 501 Courier Ave.

Owner of Lot 33 of Tract 10141:
Property Address: 429 Courier Ave.

Owner of Lot 34 of Tract 10141:
Property Address: 419 Courier Ave.

Owner of Lot 35 of Tract 10141:
Property Address: 1240 Tribune St.

Owner of Lot "A" of Tract 10141:
Property Address: Courier Ave.

Mountain View
Apartments Association,
a California nonprofit mutual
benefit association

By: _____
Steven M. Speier, Receiver

Owner of Lot 1 of Tract 10142:
Property Address: 522 Lugonia Ave.

Owner of Lot 2 of Tract 10142:
Property Address: 532 Lugonia Ave.

Owner of Lot 3 of Tract 10142:
Property Address: 600 Lugonia Ave.

Owner of Lot 4 of Tract 10142:
Property Address: 610 Lugonia Ave.

Owner of Lot 5 of Tract 10142:
Property Address: 521 Courier Ave.

Owner of Lot 6 of Tract 10142:
Property Address: 531 Courier Ave.

Owner of Lot 7 of Tract 10142:
Property Address: 1230 Oxford Dr.

Owner of Lot 8 of Tract 10142:
Property Address: 1224 Oxford Dr.

Owner of Lot 9 of Tract 10142:
Property Address: 1218 Oxford Dr.

Owner of Lot 10 of Tract 10142:
Property Address: 1212 Oxford Dr.

Owner of Lot 11 of Tract 10142:
Property Address: 1206 Oxford Dr.

Owner of Lot 12 of Tract 10142:
Property Address: 1146 Oxford Dr.

Owner of Lot 13 of Tract 10142:
Property Address: 1140 Oxford Dr.

Owner of Lot 14 of Tract 10142:
Property Address: 1134 Oxford Dr.

Owner of Lot 15 of Tract 10142:
Property Address: 1128 Oxford Dr.

Owner of Lot 16 of Tract 10142:
Property Address: 1122 Oxford Dr.

Owner of Lot 17 of Tract 10142:
Property Address: 1116 Oxford Dr.

Owner of Lot 18 of Tract 10142:
Property Address: 1110 Oxford Dr.

Owner of Lot 19 of Tract 10142:
Property Address: 611 Brockton Ave.

Owner of Lot 20 of Tract 10142:
Property Address: 521 Brockton Ave.

Owner of Lot 21 of Tract 10142:
Property Address: 1111 Oxford Dr.

Owner of Lot 22 of Tract 10142:
Property Address: 1117 Oxford Dr.

Owner of Lot 23 of Tract 10142:
Property Address: 1123 Oxford Dr.

Owner of Lot 24 of Tract 10142:
Property Address: 1129 Oxford Dr.

Owner of Lot 25 of Tract 10142:
Property Address: 1135 Oxford Dr.

Owner of Lot 26 of Tract 10142:
Property Address: 1141 Oxford Dr.

Owner of Lot 27 of Tract 10142:
Property Address: 1203 Oxford Dr.

Owner of Lot 28 of Tract 10142:
Property Address: 1209 Oxford Dr.

Owner of Lot 29 of Tract 10142:
Property Address: 528 Courier Ave.

Owner of Lot "A" of Tract 10142:
Property Address: None

ACKNOWLEDGMENTS

STATE OF _____)
)
COUNTY OF _____) ss.

On _____, 2003, before me, _____, a
Notary Public in and for said state, personally appeared _____

_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

WITNESS my hand and official seal.

Signature

(Seal)

ATTACH ACKNOWLEDGMENT FOR EACH SIGNATURE