

888 SEVENTH STREET

DECLARATION

OF

RESTRICTIONS (CC&Rs)

TABLE OF CONTENTS

ARTICLE 1 - Definitions

| | | |
|------|--|---|
| 1.1 | Architectural Committee or Committee | 1 |
| 1.2 | Articles | 1 |
| 1.3 | Association..... | 1 |
| 1.4 | Board..... | 1 |
| 1.5 | Bylaws..... | 1 |
| 1.6 | Commercial Condominiums..... | 2 |
| 1.7 | Common Area..... | 2 |
| 1.8 | Condominium..... | 2 |
| 1.9 | Condominium Plan..... | 2 |
| 1.10 | Declarant..... | 2 |
| 1.11 | Declaration..... | 2 |
| 1.12 | Development..... | 2 |
| 1.13 | Exclusive Use Common Area..... | 2 |
| 1.14 | Governing Documents..... | 2 |
| 1.15 | Improvements..... | 2 |
| 1.16 | Map..... | 2 |
| 1.17 | Member..... | 2 |
| 1.18 | Mortgage..... | 2 |
| 1.19 | Mortgagee..... | 2 |
| 1.20 | Owner..... | 2 |
| 1.21 | Person..... | 3 |
| 1.22 | Property..... | 3 |
| 1.23 | Residential Condominium..... | 3 |
| 1.24 | Rules..... | 3 |
| 1.25 | Unit..... | 3 |

ARTICLE 2 - Property Rights and Easements

| | | |
|------|---------------------------------|----|
| 2.1 | Type of Development..... | 3 |
| 2.2 | Ownership Interests..... | 3 |
| 2.3 | Common Area..... | 3 |
| 2.4 | Encroachment Easement..... | 4 |
| 2.5 | Utility Easement..... | 4 |
| 2.6 | Storage Space Licenses..... | 4 |
| 2.7 | Other Rights..... | 5 |
| 2.8 | Appurtenant Rights..... | 5 |
| 2.9 | Reservation of Rights..... | 5 |
| 2.10 | Authority Over Common Area..... | 5 |
| 2.11 | Delegation of Use Rights..... | 6 |
| 2.12 | Exclusive Use Common Area..... | 6 |
| 2.13 | License Parking Program..... | 7 |
| 2.14 | Restrictions on Partition..... | 10 |
| 2.15 | Right to Join Units..... | 10 |
| 2.16 | Construction Activity..... | 11 |

| | | |
|---|--|----|
| 2.17 | Affordable Housing Program..... | 11 |
| 2.18 | Noise Transmissions..... | 12 |
| ARTICLE 3 - Restrictions | | |
| 3.1 | Permitted Uses..... | 12 |
| 3.2 | Renting..... | 12 |
| 3.3 | Nuisance | 13 |
| 3.4 | Vehicle and Parking Restrictions | 14 |
| 3.5 | Towing Authority | 14 |
| 3.6 | Animals | 14 |
| 3.7 | Television or Radio Equipment..... | 15 |
| 3.8 | Residential Condominium Signs..... | 15 |
| 3.9 | Commercial Condominium Signs..... | 15 |
| 3.10 | Clothesline | 16 |
| 3.11 | Window Coverings..... | 16 |
| 3.12 | Automobile Maintenance | 16 |
| 3.13 | Alterations, Modifications or Additions..... | 16 |
| 3.14 | Compliance with Law | 16 |
| 3.15 | Drilling | 16 |
| 3.16 | Sound Transmissions | 16 |
| 3.17 | Storage Area Restrictions | 16 |
| ARTICLE 4 - Maintenance and Repair Obligations | | |
| 4.1 | Owner's Maintenance and Repair Obligations | 17 |
| 4.2 | Association's Maintenance, Repair and Landscaping Obligations..... | 18 |
| 4.3 | Inspection and Maintenance Guidelines and Schedules..... | 19 |
| 4.4 | Maintenance Responsibility List..... | 19 |
| 4.5 | Trash Removal..... | 19 |
| 4.6 | Cooperation and Access..... | 20 |
| 4.7 | Reimbursement..... | 20 |
| ARTICLE 5 - The Association | | |
| 5.1 | Formation of the Association | 20 |
| 5.2 | Governing Body | 20 |
| 5.3 | Membership | 20 |
| 5.4 | Membership Classes and Voting Rights..... | 20 |
| 5.5 | Joint Ownership Votes | 21 |
| 5.6 | Powers of the Association..... | 21 |
| 5.7 | Duties of the Association | 23 |
| 5.8 | Taxes and Assessments..... | 23 |
| 5.9 | Utility Service to the Common Area..... | 24 |
| 5.10 | Reporting and Notice Requirements..... | 24 |
| 5.11 | Enforcement of Bonded Obligations | 27 |
| 5.12 | Limitations on Authority of the Board..... | 27 |
| 5.13 | Notice of Significant Legal Proceedings | 29 |
| 5.14 | Civil Code Sections 896 and 897 Claims..... | 29 |
| 5.15 | Access to Association Records..... | 29 |
| ARTICLE 6 - Assessments | | |
| 6.1 | Obligations to Pay Assessments | 30 |
| 6.2 | Annual Regular Assessment..... | 30 |
| 6.3 | Reserves, Reserve Accounts and Reserves Study..... | 30 |
| 6.4 | Special Assessments..... | 32 |
| 6.5 | Reimbursement Assessments | 32 |
| 6.6 | Assessment Increase Restrictions..... | 32 |
| 6.7 | Commencement of Regular Assessments | 33 |
| 6.8 | Due Dates of Assessments..... | 33 |
| 6.9 | Allocation of Regular and Special Assessments | 33 |

| | | |
|---|--|----|
| 6.10 | Enforcement of Delinquent Assessments | 34 |
| 6.11 | Assessment Exemption | 38 |
| 6.12 | Estoppel Certificate | 39 |
| 6.13 | Restrictions on Association Funds | 39 |
| ARTICLE 7 - Architectural Review | | |
| 7.1 | Architectural Committee | 39 |
| 7.2 | Approval | 40 |
| 7.3 | Architectural Committee's Decision | 41 |
| 7.4 | Completion of Work | 41 |
| 7.5 | Non-liability | 41 |
| 7.6 | Enforcement | 41 |
| 7.7 | Board's Authority | 42 |
| 7.8 | Governmental Approval | 42 |
| 7.9 | Declarant Exemption | 42 |
| ARTICLE 8 - Insurance | | |
| 8.1 | Liability and Fidelity Insurance | 42 |
| 8.2 | Association Property Insurance | 42 |
| 8.3 | Insurance Rating and Cancellation | 43 |
| 8.4 | Board's Authority to Revise Insurance Coverage | 44 |
| 8.5 | Periodic Insurance Review | 44 |
| 8.6 | FNMA and FHLMC Requirements | 44 |
| 8.7 | Insurance Trustee | 44 |
| 8.8 | Owners' Property Insurance | 44 |
| 8.9 | Other Insurance | 45 |
| ARTICLE 9 - Damage, Destruction or Condemnation | | |
| 9.1 | Restoration Defined | 45 |
| 9.2 | Insured Casualty | 45 |
| 9.3 | Inadequate Insurance Proceeds or Uninsured Loss | 45 |
| 9.4 | Additional Special Assessment | 46 |
| 9.5 | Alternative Reconstruction | 46 |
| 9.6 | Sale of All Condominiums | 46 |
| 9.7 | Restoration of Partition Rights | 46 |
| 9.8 | Rebuilding Contract | 46 |
| 9.9 | Authority to Effect Changes | 47 |
| 9.10 | Condemnation | 47 |
| 9.11 | Dispute Resolutions | 48 |
| ARTICLE 10 - Rights of Mortgagees | | |
| 10.1 | Lender Definitions | 48 |
| 10.2 | Encumbrance | 48 |
| 10.3 | Rights of Institutional Mortgagees | 48 |
| 10.4 | Subordination | 49 |
| 10.5 | Breaches | 49 |
| 10.6 | Special Voting Requirements | 49 |
| 10.7 | Distribution of Insurance and Condemnation Proceed | 50 |
| 10.8 | Mortgagee Notice | 50 |
| 10.9 | Right of First Refusal | 50 |
| 10.10 | Unpaid Assessments | 50 |
| ARTICLE 11 - Amendments | | |
| 11.1 | Amendment Before Close of First Sale | 50 |
| 11.2 | Amendment After Close of First Sale | 51 |
| 11.3 | Special Amendment Requirements | 51 |
| 11.4 | Corrections | 51 |
| 11.5 | Amendment Rights of Commercial Owners | 51 |

| | |
|--|----|
| ARTICLE 12 - Declarant Disputes | 52 |
| ARTICLE 13 - Miscellaneous Provisions | |
| 13.1 Headings | 52 |
| 13.2 Severability..... | 52 |
| 13.3 Cumulative Remedies | 52 |
| 13.4 Discrimination..... | 52 |
| 13.5 Notification of Sale | 52 |
| 13.6 Reservation or Grant of Easements | 52 |
| 13.7 Incorporation of Exhibits | 52 |
| 13.8 Enforcement Rights and Remedies | 52 |
| 13.9 Term..... | 53 |
| 13.10 Reserved Rights of Declarant..... | 53 |
| 13.11 Assignment by Declarant..... | 54 |
| 13.12 Attorneys' Fees | 54 |
| 13.13 Notices | 54 |
| 13.14 No Enforcement Waiver..... | 54 |
| EXHIBIT A - Restricted Commercial Uses (§3.1.2) | |
| EXHIBIT B - Estimated Unit Square Footage Amounts (§6.9) | |
| EXHIBIT C - General Common Expenses Prorated Items (§6.9.2) | |
| EXHIBIT D - Residential Common Expenses Prorated Items (§6.9.3) | |
| EXHIBIT E - Claims Procedure (§§1.14 and 4.3 and Article 12) | |
| APPENDIX I - Unit Maintenance and Repair Responsibilities (§4.4) | |

**888 SEVENTH STREET
DECLARATION
OF
RESTRICTIONS (CC&Rs)**

THIS DECLARATION OF RESTRICTIONS (CC&Rs) is executed by 601 KING, LLC, a Delaware limited liability company (the "Declarant") with reference to the following facts:

- A. Declarant is constructing a mixed-use condominium development consisting of 2 commercial condominiums and 224 residential condominiums located on certain real property in San Francisco, California, located on the map entitled "Final Map 3289" filed in the official records of the City and County of San Francisco, California, on June 19, 2007, in Book 101 of Condominium Maps at pages 65 and 66 and described in the Condominium Plan for the development recorded on _____, 2007 as Document No. _____ in the official records of the City and County of San Francisco, California.
- B. Declarant desires to impose certain restrictions on the condominiums in the development that will benefit and bind each condominium, and each owner and successive owner thereto, as covenants running with the land and equitable servitudes, to grant and describe certain easements that will be appurtenant to the condominiums, and to establish a condominium project within the meaning of Civil Code section 1351(f).

DECLARANT DECLARES AS FOLLOWS:

ARTICLE 1 - Definitions

Unless the context indicates otherwise, the following terms shall have the following definitions:

- Section 7.1.** 1.1 Architectural Committee or Committee . The Architectural Committee described in
- 1.2 Articles . The Articles of Incorporation of the Association and any amendments thereto.
- 1.3 Association . 888 Seventh Street Owners Association, a California nonprofit mutual benefit corporation.
- 1.4 Board. The Board of Directors of the Association.
- 1.5 Bylaws . The Bylaws of the Association and any amendments thereto.
- 1.6 Commercial Condominiums . Condominium Units R-1 and R-2 shown on the Condominium Plan.

1.7 Common Area . The element of a Condominium that is owned in undivided interests in common, consisting of Parcel A as described on the Map and all Improvements thereon, except the Units as described in **Section 1.25**. The Common Area includes the land; airspace outside the Unit; foundations; unfinished floors; subfloors; beams; columns; exterior walls and trim; windows; roofs; exterior doors; bearing walls; sprinklers; sprinkler pipes and vents (including portions that protrude into the Unit); exterior staircases; garages; fireplaces, chimneys and flues (if any); life safety systems; reservoirs; tanks; pumps; meters; ducts; flues; chutes; conduits; pipes; plumbing; wires; and other utilities (except the fixtures located within the boundaries of a Unit); balconies; parking spaces; lobby; trash rooms; electrical rooms; maintenance room; hallways providing access to Units; walkways; private streets; and all other Improvements in the Development except the Improvements located within the boundaries of a Unit as described in **Section 1.25**.

1.8 Condominium . A fee (perpetual) estate in real property as defined in Civil Code section 1351(f) consisting of two elements: (i) a separate interest in space, called a "Unit" as described in **Section 1.25**, and (ii) an undivided interest in common in the Common Area as described in **Section 1.7**. Condominium includes all Commercial Condominiums and Residential Condominiums.

1.9 Condominium Plan . The condominium plan for the Development prepared in accordance with the requirements of Civil Code section 1351(e) and recorded on _____, 2007 as Document No. _____ in the official records of the City and County of San Francisco, California.

1.10 Declarant . 601 King, LLC, a Delaware limited liability company, or any successor or assign that assumes in writing all or a portion of the rights and duties of the Declarant hereunder. There may be more than one Declarant.

1.11 Declaration . This Declaration of Restrictions (CC&Rs) and any amendments or corrections thereto.

1.12 Development . The residential development that is constructed on the property shown on the Map and subject to this Declaration, including the Condominiums and all other Improvements thereon.

1.13 Exclusive Use Common Area . The portion or portions of the Common Area described in **Section 2.12** subject to rights for the exclusive use of one or more, but fewer than all, of the Owners.

1.14 Governing Documents . This Declaration, the Articles of Incorporation, the Bylaws and the Rules, provided that the Claims Procedure attached as **Exhibit E** is not part of the Governing Documents.

1.15 Improvements . Any fixtures affixed to any Property in the Development within the meaning of Civil Code section 660.

1.16 Map . The map entitled "Final Map 3289" filed in the official records of the City and County of San Francisco, California, on June 19, 2007, in Book 101 of Condominium Maps at pages 65 and 66.

1.17 Member . A member of the Association.

1.18 Mortgage . A recorded mortgage or deed of trust against one or more Condominiums in the Development.

1.19 Mortgagee . A mortgagee under a Mortgage or a beneficiary under a deed of trust recorded against a Condominium in the Development.

1.20 Owner . The owner or owners of the fee (perpetual) estate of a Condominium in the Development.

1.21 Person . Any natural person, partnership, trust, corporation, limited liability company, or other legal entity.

1.22 Property . Parcel A shown on the Map, together with all Improvements thereon.

1.23 Residential Condominium s. All of the Condominiums shown on the Condominium Plan except the Commercial Condominiums described in **Section 1.6**.

1.24 Rules . Rules or regulations adopted by the Board from time to time pursuant to the authority of **Section 5.6.2**.

1.25 Unit . The element of a Condominium that is owned separately, consisting of a separate interest in space, the boundaries of which are described as the area designated "unit" followed by a number or by the letters "R", "TH" or "LL" and a number in the Condominium Plan. The dimensions of the Unit are measured from the interior unfinished perimeter walls and ceilings, floor, windows, window frames, and perimeter doors and door frames, provided that the Unit includes the wall boards, sheet rock, paint on the interior surfaces, wallpaper, paneling, outlets, stain, tile, hardwood floors, carpet and other ceiling, floor or wall finishes. The Unit does not include the structural component of any bearing wall or other structure member necessary to the support or structural rigidity of any portion of the Common Area. The Unit includes all Improvements and personal property situated within its boundaries, including, but not limited to, interior walls (except interior bearing walls), appliances, cabinets, interior doors, and all electrical, heating, plumbing and other utility fixtures. Any utility fixtures that are located partially within the Unit and partially in the Common Area, such as electrical outlets, and that exclusively serve the Unit are part of the Unit. Areas within a dropped ceiling, duct or utility chase that traverses a Unit and that contain utilities that serve another Condominium or two or more Condominiums are Common Areas and not part of the Unit. In interpreting deeds and plans, the existing physical boundaries of the Unit or Unit reconstructed in substantial accordance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the Condominium Plan or any other recorded document, regardless of variances between boundaries shown on the Condominium Plan or in any other recorded document and those of the Building and regardless of settling or lateral movement of the Building.

Commercial Unit R-2 is separated by Common Area but is a single Unit and shall remain at all times under common ownership.

ARTICLE 2 - Property Rights and Easements

2.1 Type of Development . This Development is a condominium project within the meaning of Civil Code section 1351(f) and consists of two Commercial Condominiums and 224 Residential Condominiums.

2.2 Ownership Interests . Each Owner owns a fee (perpetual) estate in a Condominium consisting of a separate interest in a Unit as defined in **Section 1.25** and an undivided equal interest in common in the Common Area described in **Section 1.7**.

The Unit and the Common Area appurtenant thereto may not be separated. Any transfer of a Unit automatically shall transfer the Common Area appurtenant thereto regardless of whether the instrument of transfer describes the Common Area. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Common Area shall be void unless the Unit appurtenant thereto is also transferred.

2.3 Common Area . Each Owner or tenant and their family members and guests have nonexclusive rights to use, enjoy, ingress and egress in, to and throughout the Common Area and any Improvements thereon, subject to the provisions of **Sections 2.6 and 2.9** and the Exclusive Use Common Area rights as described in **Sections 2.12 and 2.13**.

2.4 Encroachment Easement . Each Condominium, or portion thereof, as the dominant tenement has an easement over any other Condominium, or portion thereof, as the servient tenement for the purpose of accommodating any encroachment of roof overhangs, porches, staircases, windows, chimneys or other Condominium building Improvements resulting from the original construction of the Improvements, settlement or shifting of structures, or minor construction changes during the course of construction, and any encroachment authorized under **Section 2.10**. The extent of the encroachment easement shall be the location of the encroaching structure as originally constructed by Declarant. If a structure is partially or totally destroyed, the structure may be repaired or rebuilt in accordance with the original plans, including the replacement of any encroaching Improvement.

2.5 Utility Easement . Each Condominium as the servient tenement is subject to an easement in favor of each other Condominium as the dominant tenement for the installation, retention, maintenance, repair and replacement of any utility chases, shafts, vents, ducts, lines and other equipment that traverse the Unit of the servient tenement and provide utility service to the dominant tenement or that are a part of the Development's life safety system (the "Utility Facilities"). The location of the easement is the location of the Utility Facilities installed as a part of the original construction of the Unit or as subsequently installed with the consent of the Owner of the servient tenement. The easement right granted hereunder includes access to the Unit as may be necessary to inspect, maintain, repair, replace and/or upgrade the Utility Facilities. The occupants of the servient tenement shall not take any action that would in any manner interfere with the operation of the Utility Facilities.

2.6 Storage Space Licenses . If any Exclusive Use Common Area storage spaces are not assigned to a Condominium for the exclusive use of the occupants of that Condominium as defined in **Section 2.12**, Declarant reserves the right to grant a license for access to and the right to store personal property in the storage spaces (the "Licensed Storage Spaces") to any Person who is neither a Condominium Owner nor Condominium occupant. The license shall include ingress and egress easements through the storage area access door in order to access and use the Licensed Storage Spaces. Declarant has the rights and duties with respect to each Licensed Storage Space as described in this **Section 2.6**. The license may be for a term not to exceed one year and may provide that the license is automatically renewed for a one year period unless either the Board or licensee elects in a writing delivered to the other party not later than 60 days prior to the expiration of the current license term not to renew the license.

The license shall not give the licensee access and use rights to any portion of the Development other than the storage area where the storage space is located. Any consideration for the license shall be the sole property of the Declarant, provided that the license shall require the licensee to pay a monthly fee to the Association, which fee shall be due and payable on the first day of each month. The monthly fee shall be \$15 per month, provided that commencing on January 1, 2008, and continuing on each anniversary date thereafter, the monthly fee shall be increased by the increase in the Consumer Price Index - All Urban Consumers: San Francisco/Oakland/San Jose, CA, as published by the Bureau of Labor Statistics (Base 1982-84=100) using as the base index the index that was published closest to but not after the applicable anniversary date.

If the licensee fails to pay the monthly fee within five days of its due date, the Association may charge a late fee in the same amount as late fees charged on delinquent assessments and interest as the same rate charged on delinquent assessments. In addition, if any licensee is delinquent for 30 days or more, the Association may suspend storage rights until the delinquent amounts together with late fees and interest are paid in full. If fees are not paid for 90 days or more, the Board may elect to terminate the license by notifying the licensee of its election to terminate and, thereafter, the licensee shall have no further rights under the license. All contents may be removed and stored at an offsite storage facility at the expense of the licensee. The Licensed Storage Space, thereafter, shall be an unassigned space. The Board may regulate the use of the unassigned space and may grant licenses for its exclusive use but only to Condominium Owners for use by occupants of the Owner's Condominium.

The license shall be subject to the same Rules regulating access to and use of the storage as occupants using Exclusive Use Common Area Storage Spaces. The Rules shall be applied in a uniform and non-discriminatory manner. If the licensee violates any Rules regulating access to and use of the storage space in a manner that may result in injury to any Person or damage, theft or vandalism to any

Property, the Association may suspend licensee's storage rights for a period not to exceed 60 days for each violation arising from a single occurrence. Licensee shall be required to pay the monthly use fees during any suspension period.

Declarant's rights to grant licenses to non-occupants shall terminate on the third anniversary of the date this Declaration is recorded in the records of the City and County of San Francisco, California, at which time, the use of any unassigned storage shall be under the jurisdiction of the Board. Any existing licenses shall remain in effect, including any renewal rights as authorized herein. The Board may regulate the use of the unassigned spaces and may grant licenses for its exclusive use but only to Condominium Owners for use by occupants of the Owner's Condominium.

2.7 Other Rights . Each Condominium is entitled to the benefits and/or subject to the burdens of any easements, rights-of-way, or dedications as may be granted or reserved on the Map, any deed to the Condominium or in any other appropriate public record.

2.8 Appurtenant Rights . Each right or easement described in this **Article 2** is a right or easement that is appurtenant to the Condominium; and any transfer of the Condominium automatically transfers the easement appurtenant thereto regardless of whether the instrument of transfer describes the right or the easement.

2.9 Reservation of Rights . Notwithstanding any property rights, including easements, described herein, each Condominium is subject to each of the following:

(i) the right of Declarant or its agents to enter on any portion of the Development to construct and sell the Improvements that Declarant intends to construct within the Development, to make repairs, and to correct any construction problems thereon, provided that such entry does not unreasonably interfere with the use or occupancy of any occupied Condominium unless authorized by its Owner, which authorization shall not be unreasonably withheld;

(ii) the right of the Association's agents to enter any Condominium to cure any violation or breach of this Declaration or the Bylaws or the Rules, provided that at least 30 days' prior written notice of such violation or breach (except in the cases of emergency) has been given to the Owner and provided that within the 30-day period such Owner has not acted to cure such violation or breach;

(iii) the right of the Association's agents to enter any Condominium to perform its obligations and duties under this Declaration, including the obligations and the duties with respect to maintenance or repair of any Condominium; and

(iv) the rights reserved in **Sections 2.6, 2.10, 2.12, 2.13, 9.9 and 13.10**.

2.10 Authority Over Common Area . The Board or Declarant (as long as Declarant owns 25% or more of the Condominiums in the Development) shall have the power and the right in the name of the Association and all of the Owners as their attorney-in-fact to grant, convey or otherwise transfer to any Owner or any other Person fee title, easements, leasehold estates, exclusive use easements or rights, licenses, lot-line adjustments, rights-of-way and/or dedications in, on, over or under the Common Area or other property interests in order to: (i) construct, erect, operate, maintain or replace lines, cables, wires, conduits or other devices for electricity, cable television, internet services, fiber optics and other telecommunications equipment, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any similar public or quasi-public Improvements or facilities; (ii) accommodate any encroachment that in the sole discretion of the Board or Declarant does not unreasonably interfere with the use and enjoyment of the Common Area; or (iii) accomplish any other purpose that in the sole discretion of the Board or Declarant is in the interest of the Association and its Members and does not unreasonably interfere with the use and enjoyment of the Common Area. Each Owner in accepting a deed to a Condominium expressly consents to such action and authorizes and appoints the Association and Declarant (as long as Declarant owns 25% or more of the Condominiums in the Development) as attorney-in-fact of such Owner to execute and deliver all documents and interests to accomplish the action, including, but not limited to, grant deeds, easements, subdivision maps, and lot-line adjustments. Notwithstanding anything herein to the contrary,

in no event shall the Board or Declarant: (i) take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of his or her Condominium or any Exclusive Use Common Area without the prior written consent of that Owner; or (ii) grant exclusive use of any portion of the Common Area to any Owner without the affirmative vote of a majority of the Members present in person or by proxy at a duly held meeting, unless Member approval is not required as described in Civil Code section 1363.07. If Member approval is required, the Board in placing the measure before the Members shall describe whether the Association will receive a monetary consideration for the grant and whether the Association or the transferee is responsible for providing insurance coverage for the Exclusive Use Common Area and shall comply with the secret balloting requirements of Civil Code section 1363.03(b). Furthermore, the conveyance of fee title to any portion of the Common Area as authorized in this **Section 2.10** (other than conveyances made as a part of lot-line adjustments) shall require the consent of a majority of the total voting power of the Association other than Declarant and such consent of the Mortgagees as may be required by **Article 10**.

2.11 Delegation of Use Rights . An Owner's family members who occupy the Condominium or any guests and any such Persons as may be permitted by the Rules may use and enjoy any Common Area Improvements. All such use shall be subject to restrictions contained in this Declaration and the Rules. If an Owner rents his or her Condominium, the Owner, members of the Owner's family, and the Owner's guest shall not be entitled to use any Common Area Improvements other than such use as is directly related to the Owners rights and duties as a landlord. Such rights may be enjoyed by the tenant and the tenant's family members and guests during the term of the rental agreement.

Any Owner who rents his or her Unit must comply with the requirements of **Section 3.2**.

2.12 Exclusive Use Common Area . Portions of the Common Area are set aside for the exclusive use of the occupants of certain Units and constitute Exclusive Use Common Areas. The areas are shown on the Condominium Plan with the designation "D" or "P" and are set aside for the exclusive use of the occupants of the Unit with the same number as the number of the designated area as Exclusive Use Common Area decks or patios.

Declarant may grant to certain Condominiums Exclusive Use Common Area parking and/or storage spaces, including the right to grant multiple Exclusive Use Common Area parking spaces to a Condominium subject to the rights and restrictions set forth in **Section 2.13**. The parking and storage spaces are designated "C" for a compact space, "H" for a handicapped space, "R" for a regular space and "S" for a storage space followed by a number on the Condominium Plan. The grant shall be made by Declarant via the initial deed to the Condominium or via other appropriately recorded instrument. Except as authorized in **Sections 2.6 and 2.13**, Declarant's right to grant parking or storage spaces as Exclusive Use Common Area shall terminate automatically on the 3rd anniversary date of the recordation of this original Declaration in the official records of the City and County of San Francisco or such earlier date as Declarant shall elect in a writing delivered to the Association. Declarant may exercise these rights even if the Declarant no longer owns any Condominiums in the Development. Any unassigned spaces as of that date shall remain unassigned and the Board may adopt Rules regulating the use of any unassigned spaces. The Rules may allow for the temporary licensing of the exclusive use of these spaces to occupants of Condominiums within the Development.

The parking spaces designated "H" followed by a number on the Condominium Plan are handicapped spaces. These spaces may be granted to certain Condominiums as Exclusive Use Common Area parking spaces. If the occupants of the Condominiums granted these spaces are not appropriately licensed to use a handicapped parking space by the State of California and the occupant of another Condominium assigned a parking space is appropriately licensed and the space granted this Condominium is not a handicapped parking space (the "Licensed Occupant"), the Association, on receipt of written request from the Licensed Occupant, shall require the Owner of a Condominium granted a handicapped space to exchange the handicapped space with the space granted to the Condominium occupied by the Licensed Occupant. The exchange shall remain in effect as long as the Licensed Occupant occupies the Condominium and remains licensed to use a handicapped space and shall terminate automatically on the date the Licensed Occupant ceases to occupy the Condominium or ceases to be appropriately licensed to use a handicapped parking space, whichever occurs first. The exchange shall be temporary and shall not alter the permanent parking space(s) assigned to any

Condominium and appurtenant to that Condominium. The Owners of the Condominiums granted the handicapped spaces covenant to cooperate with the Association and any Licensed Occupant in effecting any exchange required under this **Section 2.12**.

If two or more handicapped spaces are granted to Condominiums where the occupants are not licensed to use a handicapped space and the spaces have not been exchanged with the space of a Licensed Occupant, the selection of the available handicapped space to be exchanged with the space of the Licensed Occupant shall be by agreement between the Owners of the Condominiums with the assigned handicapped spaces. If the Owners cannot reach agreement for any reason within ten days after receipt of written request from the Licensed Occupant to effect the exchange, the selection shall be made by lottery by the President of the Association. The selection resulting from the lottery shall be final and binding. The right to exchange a non-handicapped space for a handicapped space shall be available to any Licensed Occupant on a first-come, first-serve basis. The Board may adopt Rules regulating the exchange of non-handicapped spaces for handicapped spaces that are not inconsistent with the provisions of this **Section 2.12**.

Except as described herein and in **Section 2.13**, no other portion of the Common Area is Exclusive Use Common Area. Exclusive Use Common Area rights are appurtenant to the Condominium to which the rights are assigned and may not be separated therefrom. Any transfer of the Condominium automatically transfers the exclusive use rights appurtenant thereto regardless of whether the instrument of transfer describes the Exclusive Use Common Area rights.

Exclusive Use Common Area parking or storage spaces may be rented, licensed or permanently assigned to the Owner of another Condominium. The LP Spaces as defined in **Section 2.13** may be licensed to non-residents as authorized in **Section 2.13**. A space that is rented or licensed remains appurtenant to the lessor or licensor's Condominium whereas a permanent assignment transfers the appurtenant space from the assignor's Condominium to the assignee's Condominium on satisfaction of the assignment procedures described herein. If permanently assigned to another Condominium, the Condominium Owners (the assignor and assignee), at their cost, shall take the appropriate steps to effect the permanent assignment, including, but not limited to, obtaining any necessary deed of reconveyance from any deed of trust encumbering a parking space that is to be permanently assigned to another Condominium. A permanent assignment shall be effective on the date the assignment document is recorded in the records of the City and County of San Francisco, California and a written notice of the assignment is provided the Association, whichever occurs later. When effective the parking space automatically shall become an Exclusive Use Common Area parking space appurtenant to the assignee's Condominium and the Owners of this Condominium shall be obligated to pay the share of the garage costs for this assigned parking space as described in **Section 6.9.1**.

2.13 License Parking Program . Declarant reserves the right to grant a Condominium multiple parking spaces each of which constitute an Exclusive Use Common Area parking space appurtenant to the Condominium as described in **Section 2.12** (the "LP Spaces"). The assignment shall be made as described in **Section 2.12**. The Exclusive Use Common Area LP Spaces are subject to the rights and restrictions set forth in **Sections 2.12 and 2.13**. If there is any conflict between **Section 2.12** and this **Section 2.13**, this **Section 2.13** shall control. For purposes of this **Section 2.13** the Owner of the Condominium with the Exclusive Use Common Area LP Spaces appurtenant thereto is referred to as the "LP Space Owner". Unless and until an LP Space is permanently assigned to another Condominium as described in **Section 2.13.2** or terminated as described in **Section 2.13.5**, the Condominium Owner assigned the LP Space is responsible for paying the assessments allocated to the LP Spaces as described in **Section 6.9.1**.

2.13.1 Parking Licenses. As long as there are LP Spaces available for licensing, the LP Space Owner shall grant to any Owner of a Condominium that does not have an Exclusive Use Common Area parking space and may grant to any Condominium Owner with Exclusive Use Common Area parking space, a license to use an LP Space. The term and price condition of the license shall be as agreed between the LP Space Owner and the Condominium Owner, provided that if the license results in the Owner having two or more parking spaces within the Development, the term of the license for the second or any additional spaces cannot exceed one year with renewals not to exceed one year.

If there are no LP Spaces currently available for licensing, any Condominium Owner without an Exclusive Use Common Area parking space or a license for an LP Space shall have priority over all other Persons to the extent describe herein for any LP Space that becomes available for licensing by submitting a written request to the Association or its manager to be placed on a priority waiting list. The Board shall maintain the priority waiting list on a first come, first serve basis. Condominium Owners on the list are referred to in this Declaration as "Priority Owners". If there are any Priority Owners on the waiting list, the LP Space Owner may not execute or renew a license agreement with a (i) Condominium Owner with an Exclusive Use Common Area parking space appurtenant to the Owner's Condominium or with a current license for another LP Space; or (ii) a non-resident.

If there are no Priority Owners on the waiting list, the LP Space Owner may license a space to a non-resident. The license shall be for a term not to exceed one year and may be renewed for additional one year terms unless there is a Priority Owner on the waiting list. The license fee and other terms and conditions shall be as agreed to between the LP Space Owner and the non-resident licensee. The license with the non-resident shall include ingress and egress rights through the entry gates and over the drive aisles and walkways in order to access and park a vehicle in an LP Space. The license shall not give the non-resident access rights to any portion of the Development other than the garage.

Each licensee shall be subject to the same Rules regulating access to and use of the garage as occupants using Exclusive Use Common Area Parking Spaces. The Rules shall be applied in a uniform and non-discriminatory manner. If the licensee violates any Rules regulating access to and use of the garage in a manner that may result in injury to any Person or damage, theft or vandalism to any Property, the Board may suspend licensee's parking rights for a period not to exceed 60 days for each violation arising from a single occurrence. Licensee shall be required to pay the license fee and the LP Space Owner shall be obligated to pay the assessment allocated to the LP Space during any suspension period.

If the licensee fails to pay the monthly use fee within ten days of its due date, the LP Space Owner may charge a late fee in the same amount as late fees charged by the Association on delinquent assessments and interest as the same rate charged on delinquent assessments. In addition, if any licensee is delinquent for 30 days or more, the LP Space Owner may suspend parking rights until the delinquent amounts together with late fees and interest are paid in full. The Board shall cooperate with the LP Space Owner in taking the necessary steps to enforce the suspension, provided all enforcement costs shall be borne by the LP Space Owner. If fees are not paid for 90 days or more, the LP Space Owner may terminate the license by notifying the licensee of its election to terminate and, thereafter, the licensee shall have no further rights under the license and the Board shall cooperate with the LP Space Owner in taking the necessary steps to enforce the termination. The termination shall not affect the LP Space Owner's obligation to pay assessments for the LP Space.

Any Condominium occupant that is duly authorized to use a handicapped parking space shall have priority to any LP Space that is a handicapped space. If the LP Space Owner licenses a handicapped space to any occupant not authorized to use a handicapped space, the LP Space Owner shall include a provision in the license agreement that requires the licensee to trade the handicapped space for a non-handicapped space in the event no handicapped spaces are available and an occupant authorized to use a handicapped space desires to license a LP Space under the provisions of **Section 2.13.1**.

2.13.2 Permanent Transfer of an LP Space. The LP Space Owner may permanently transfer an LP Space to a Condominium Owner so the space becomes an Exclusive Use Common Area parking space appurtenant to the Condominium owned by the transferee. The terms and conditions of the transfer shall be as agreed to between the LP Space Owner and the transferee. The LP Space Owner and the Condominium Owner, at their cost, shall take the appropriate steps to effect the permanent transfer, including, but not limited to, obtaining any necessary deeds of reconveyance from any deeds of trust encumbering the LP Space that is to be permanently transferred. A permanent transfer shall be effective on the date the transfer document is recorded in the official records of the City and County of San Francisco, California and a written notice of the transfer is provided the Association, whichever occurs later. From and after the effective date of the transfer the space shall cease to be an LP Space subject to the provisions of this **Section 2.13** and shall remain an Exclusive Use Common Area parking space appurtenant to the transferee's Condominium subject to the provisions of **Section 2.12**,

and the transferee thereafter shall be responsible for paying the assessment allocated to the transferred Exclusive Use Common Area parking space under the provisions of **Section 6.9.1**.

2.13.3 Transfer of All the LP Spaces. The LP Space Owner may permanently transfer all the LP Spaces appurtenant to the LP Space Owner's Condominium to another Condominium within the Development so that the LP Spaces so transferred become appurtenant to the Condominium owned by the transferee. The transfer shall be documented by an instrument of assignment recorded in the records of the City and County of San Francisco, California. The LP Space Owner and the transferee, at their cost, shall take appropriate steps to effect the permanent transfer, including obtaining any necessary deeds of reconveyance from any deeds of trust encumbering the LP Spaces. Unless the instrument of assignment provides otherwise, the transferred LP Spaces remain as LP Spaces for all purposes under this **Section 2.13** and the transferee becomes the LP Space Owner automatically on the date the instrument of assignment is recorded in the official records of the City and County of San Francisco, California. There may be only one LP Space Owner.

2.13.4 Valet Parking Service. All or any portion of the LP Spaces not subject to a license under **Section 2.13.1** may be operated as a valet parking service under the following terms and conditions:

(i) Compliance with Laws. The operation of the valet parking service shall be in compliance with all applicable laws and ordinances, including all permit and other approval requirements and the LP Space Owner shall promptly pay all parking fees and other levies imposed by any governmental agency in connection with the valet operations;

(ii) Extent of Service. The valet parking service may be made available to the general public, provided that if made available to the general public the service must also be made available to occupants of Condominiums in the Development at the same or better terms and conditions afforded to the general public;

(iii) Drive Aisle Clear. The valet parking operation may not, at any time, block or hinder access to any parking space that is not an LP Space participating in the valet operation and may not block or hinder the ability of vehicles using these spaces to enter or exit the garage. The Board may take appropriate steps to ensure compliance with this requirement, including the imposition of fines or monetary penalties for any violation;

(iv) Insurance. Either the LP Space Owner or the operator of the valet parking service shall at all times procure and maintain a commercial general liability insurance policy insuring the Condominium Owners, the Association and its members, directors, officers and agents, including the property manager, against any liability incident to any bodily injury or property damage from any accident or occurrence arising from or as a result of the operation of valet parking services. The limits of the insurance shall not be less than \$2,000,000 covering all claims for death, personal injury and property damage from a single occurrence and a \$5,000,000 umbrella coverage. The insurance shall be issued by an insurance company licensed by the State of California and rated "A" or better and ranked as financial size at "Class XII" or higher by A.M. Best. If an A.M. Best rating is not available, the insurance company shall have a substantially equivalent rating by an insurance company rating entity with substantially similar experience and repute as A.M. Best. Upon receipt of written request from the Board or its designated agent, the Owner or the valet parking operator promptly shall provide the Board with satisfactory documentation that the insurance required herein is in full force and effect. In the event any damage is covered by insurance maintained by the LP Space Owners and by the Association, the LP Space Owners' insurance shall be primary and non-contributing.

Furthermore, if the operation of the valet parking service results in any increase in the cost for the insurance maintained by the Association under **Article 8**, the Association may allocate the increased cost to the LP Space Owner.

(v) Indemnification. The LP Space Owner shall defend, indemnify and hold harmless the Condominium Owners and the Association and its members, directors, officers and agents against any claim, demand, liability, loss, cause of action, judgment or cost, including reasonable

attorneys' fees arising out of any death or injury to any person or damage to any property arising from or as a result of the valet parking operation.

(vi) Damage. The LP Space Owner shall be responsible for reimbursing the Association for the cost to repair or replace any Improvements within the Development damaged or destroyed as a result of the valet parking operation except to the extent of insurance proceeds received by the Association under the insurance policies maintained by the Association. In the event any damage or destruction is a covered claim under policies maintained by the Association, the Association shall diligently pursue the claim, provided that the Board, in the exercise of its reasonable business judgment, may settle the claim on such terms as the Board selects. If the claim is covered by insurance maintained by the LP Space Owner or valet parking service operator and the Association, the policy maintained by the LP Space Owner or valet parking service operator shall be primary. Any deductible amount shall be paid by the LP Space Owner.

(vii) Garage Cost Reallocation. It is intended the Garage Costs described in **Section 6.9.1** shall be allocated in an equitable manner based on the benefits received from and burdens imposed on the parties with rights to park in the garage. If either the Association or LP Space Owner feel the allocation should be readjusted as a result of the valet parking operations, the requesting party shall notify the other party in writing (the "Readjustment Request"). The parties shall meet and negotiate in good faith regarding a readjustment within 30 days of receipt of the Readjustment Request. If the parties fail to reach an agreement within 30 days of the initial meeting or if a party refuses to meet, the matter shall be submitted to the Judicial Arbitration and Mediation Services (JAMS) for resolution under its commercial rules by a single arbitrator. The arbitrator's authority shall be limited to a determination of a fair and equitable allocation of the costs and the effective date of the readjustment which may be no earlier than the date of the Readjustment Request. The arbitrator may award costs and attorneys' fees to the prevailing party but has no jurisdiction to award any other remedies such as termination of the rights of the LP Space Owner under this **Section 2.13**. Neither the Association nor any LP Space Owner may make a Readjustment Request more than one time in any 36-month period and no party may make a Readjustment Request within 24 months following the date of the issuance of the arbitrator's award resolving a dispute over the allocation of Garage Costs.

2.13.5 Termination. Upon termination of all of the LP Spaces as provided in **Section 2.13.2** or upon the written election of the LP Space Owner, the provisions of this **Section 2.13** shall terminate and thereafter shall be null and void. Any LP Spaces that have not been transferred to Condominiums under **Section 2.13.2** shall remain unassigned parking spaces. The Board may adopt Rules regulating the use of the unassigned parking spaces, including Rules allowing for the licensing of the spaces to particular Condominiums within the Development.

2.14 Restrictions on Partition . Except as authorized in **Sections 2.10, 9.7** and **9.9**, the Common Area shall remain undivided, and there shall be no judicial partition thereof except as may be authorized by Civil Code section 1359 or any successor statute thereto.

Any proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums as of the date immediately preceding the date of the event giving rise to the right of the Owners to partition the Common Area.

2.15 Right to Join Units . An Owner who owns two Units that adjoin each other horizontally or vertically may connect the Units under the following conditions:

2.15.1 Prior Approval. Prior to the commencement of any work, the Owner shall obtain appropriate approval from the Architectural Committee in accordance with the procedures described in **Article 7**. The Committee may require the Owner to pay in advance any costs the Committee may expect to incur in reviewing any plans, specifications and reports required to be submitted to the Committee in connection with the proposed work, including, but not limited to, any costs for outside consultants to review the proposed work. The Committee shall deny approval if it determines in its absolute discretion that the work would: (a) adversely affect the structural integrity of the Development;

(b) materially alter the appearance of any Common Area or Association Property as viewed from any hallway, lobby or garage or from any location outside the Development or (c) unreasonably increase any sound transmissions, resonances or reverberations to any other Condominium.

2.15.2 Proof of Common Ownership. The Owner provides the Board with appropriate evidence that the Units to be joined are under common ownership.

2.15.3 Collateral, Insurance and Indemnities. The Owner shall provide such collateral, insurance and indemnities as the Committee considers necessary to ensure that the work will be completed in a timely and proper manner, that payment for all labor and materials will be properly made, and that the Association and its Members are adequately protected against mechanics or other liens, any damage that may occur to the Common Area or Association Property or any Unit, or any liability that may arise from the work.

2.15.4 Work Requirements. All work shall be done at the expense of the Owner and shall be performed in a good and workmanlike manner. The Owner shall not commence any work until the Owner has secured all appropriate governmental permits and approvals, which permits and approvals shall be provided to the Association upon request. All work shall be performed only by contractors duly licensed by the State of California.

2.15.5 Maintenance and Repairs. Unless the Board agrees in writing to the contrary, the Owner shall assume the responsibility, at the Owner's sole cost, for the maintenance, repair and replacement of all portions of the Common Area that have been modified or altered in any manner in order to install and/or maintain the opening between the Units.

2.15.6 Separate Residential Condominiums. For all purposes in this Declaration, the joined Condominiums shall remain as separate and distinct Condominiums and shall remain subject to separate assessments and entitled to separate votes for each Condominium.

2.15.7 Restoration. Unless the Board approves otherwise in writing, if the joined Condominiums at any time cease to be under common ownership, the Owner(s) not later than 90 days after the effective date of the termination of the common ownership shall take all necessary steps to close the opening connecting the Units and restore the Common Area to the condition it was in prior to the work connecting the Units. Prior to the commencement of the restoration work, the Owner(s) shall obtain the approval of the Architectural Committee for the necessary work in accordance with the procedures of **Article 7**. The Committee in its discretion may impose the requirements described in **Section 2.15.3** above on the restoration work.

2.15.8 Recordation. If an Owner is granted permission to join Units as described herein, the Owner and the Association shall execute and record a document in the records of the City and County of San Francisco, California, describing the rights and duties of the Owner as provided in this **Section 2.15**. The rights and duties shall constitute covenants running with the land and equitable servitudes that bind the Condominiums that are joined and benefit the other Condominiums and all Owners and successive owners thereto. If the Units are subsequently separated and the Common Area restored, the then Owner(s) and the Association may record a document confirming the restoration and terminating the prior recorded document.

2.16 Construction Activity . Each Owner acknowledges that: (i) the construction of the Development may occur over an extended period of time; (ii) the quiet use and enjoyment of the Owner's Condominium may be disturbed as a result of the noise, dust, vibrations and other effects of construction activities; and (iii) the disturbance may continue until the completion of the construction of the Development.

2.17 Affordable Housing Program . The below market rate Condominiums in the Development participate in an affordable housing program operated by the San Francisco Mayor's Office of Housing. The participating Condominiums are subject to certain resale and rental restrictions. The restrictions will be set forth in a document recorded in the records of the City and County of San Francisco, California

against each Condominium participating in this program on or before the date Declarant transfers title to the participating Condominium.

2.18 Noise Transmissions . The Development has been designed to meet the acoustical building code standards in effect at the time the Development was constructed. The standards establish minimum performance criteria and do not eliminate all noise transmissions. Occupants will hear noise from other Units and noises from outside the Condominium Building, including, but not limited to, noise from music, television sets, stereo and other audio equipment, foot traffic from other units, plumbing fixture operations, trash disposals, entry gate operations, truck traffic, sirens, aircraft, foghorns, ballpark stadium noise and lights and other street noises. Owners and occupants must comply with the sound transmission restrictions set forth in **Section 3.16**. Because the Units are not soundproof, it is important for occupants to be considerate of their neighbors by reducing sound volumes from audio equipment, particularly between the hours of 10:00 p.m. and 7:00 a.m. and restricting noise generating activities such as vacuuming and washer and dryer operations to daylight hours.

ARTICLE 3 - Restrictions

3.1 Permitted Uses . The Development is a mixed-use development that is used primarily for residential purposes and also for commercial and retail purposes. The applicable uses are as follows:

3.1.1 Residential Use. Subject to the provisions of **Section 3.1.3**, the Residential Condominiums shall be used for residential purposes only and shall not be used or caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Owners or occupants of the Condominiums may use a room or rooms in the residence as an office, provided that the primary use of the Condominium is as a residence, no advertising or signage is used in any manner in connection with the office use, and no customers, clients or patients enter the Condominium on any regular basis. The Board shall have the authority to adopt Rules regarding the use of offices within the Development in order to maintain the residential characteristics of these Condominiums. The Commercial Condominiums may not be used for residential use.

The use of Condominiums or other Improvements in the Development by the Declarant or its designees as models and sales and construction offices for purposes of developing, improving and selling the Condominiums in the Development shall not be a violation of this restriction, provided that such use shall terminate no later than three years after the date of recordation of this Declaration.

3.1.2 Commercial Use Only. Subject to the provisions of **Section 3.1.3**, the Commercial Condominiums may be used for the following commercial purposes only: administrative and business offices, business and professional support, research services, professional services, repair services, and retail sales (including restaurant operations). No commercial uses may be conducted in any of these Units until the Condominium Owner complies with all permit, licensing and other commercial requirements and conditions imposed by the City and County of San Francisco. Notwithstanding the foregoing, none of the uses set forth in **Exhibit A** may be conducted within any Commercial Condominium even if authorized under local zoning laws unless otherwise authorized by the Board in writing.

3.1.3 Parking Operations. The Condominiums assigned the LP Spaces as described in **Section 2.13** may license or transfer the LP Spaces and operate a valet parking service as authorized under **Section 2.13**.

3.2 Renting . Subject to any rental restrictions imposed on the Condominiums participating in the Affordable Housing Program described in **Section 2.17**, the Owner may rent his or her Residential Condominium provided each of the following conditions is satisfied:

- (i) the rental agreement must be in writing;

(ii) the tenant's use of the Condominium must comply with the restrictions described in **Section 3.1**;

(iii) the rental agreement must contain a provision that the rental agreement is subject to this Declaration, the Bylaws and the Rules and that any violation of any of the foregoing shall be a default under the rental agreement;

(iv) the rental agreement must be for the entire Condominium and not merely parts thereof unless the Owner remains in occupancy;

(v) before commencement of the rental agreement, the Owner shall provide the Association with the names of the tenants and each family member who will reside in the Condominium and the address and telephone number of the Owner; and

(vi) no Condominium shall be rented for transient, hotel, time-share, fractional or similar purposes, which shall be defined as (a) any rental for any period less than 30 days; (b) any rental if the occupants of the Condominium are provided customary hotel service, such as room service for food and beverage, maid service, or furnishing laundry and linen; or (c) any time-sharing arrangement under which occupancy rights for specific periods are distributed between two or more persons. Notwithstanding the foregoing, the use of a Condominium by a Person engaged in business as a temporary residence for the Person's directors, officers, employees, agents and/or guests shall not be in violation of this **Section 3.2(vi)** as long as: (1) the use by the temporary occupants is for residential purposes as described in **Section 3.1**; (2) the Owner notifies the Association in writing of such use and provides the Association with such other written information as the Association may reasonably require to identify the temporary occupants; and (3) the Owner complies with such Rules as the Board may adopt from time to time for security or other purposes related to this authorized use.

Any Owner that rents his or her Condominium shall keep the Association informed at all times of the Owner's address and telephone number. Any rental agreement shall be subject to this Declaration, the Bylaws and the Rules; and any breach of any of the foregoing shall constitute a breach by the Owner and also a default under the rental agreement, regardless of whether it so provides in the rental agreement. If any tenant breaches any restriction contained in this Declaration, the Bylaws or the Rules, the Owner, on demand from the Association, immediately shall take such steps as may be necessary to correct the breach, including, if necessary, eviction of the tenant.

Without limiting the foregoing, if any tenant is in violation of the provisions of the Declaration, Bylaws or Rules, 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. If the court finds that the tenant is violating or has violated any of the provisions of the Declaration, Bylaws or Rules, the court may find the tenant in violation of the rental agreement and subject to an unlawful detainer action notwithstanding the fact that the Owner is not the plaintiff in the action and/or the tenant is not otherwise in violation of the tenant's rental agreement. For purposes of granting an unlawful detainer against the tenant, the court may assume that the Association is a third-party beneficiary under the rental agreement and as such may exercise all the rights of the Owner thereunder. The remedy provided herein is not exclusive and is in addition to any other remedy or remedies which the Association has. The Association may recover against the Owner all its costs, including court costs and reasonable attorneys' fees incurred in prosecuting the unlawful detainer action. If the Owner fails to pay the costs within 30 days of receipt of written demand, the Association may levy a reimbursement assessment to recover the costs and attorneys' fees.

The Association shall give the tenant and the Owner notice in writing of the nature of the violation of the Declaration and/or Rules and 20 days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

The provisions of this **Section 3.2** do not apply to the Commercial Condominiums.

3.3 Nuisance . No activity shall be conducted in any Unit or the Common Area that constitutes a nuisance or unreasonably interferes with the use or quiet enjoyment of the occupants of any other Condominium. No use is allowed which creates conditions that are hazardous, noxious or offensive through the emission of odor, fumes, smoke, cinders, dust, gas, vibrations, glare, refuse, water-carried waste, or excessive noise. No activity may be carried on which causes any insurance policy to be cancelled or not renewed or which will impair the structural integrity of the Development. No running, loud conversation or loitering in hallways, elevator, entrance ways or parking areas or creation of any other noise or nuisance in the Common Area is allowed. No wheeled recreational vehicles may be used in the hallways or elevator or any other portion of the Common Area, including all exterior Common Areas. This restriction includes, but is not limited to, bicycles, tricycles, scooters, wagons, skateboards or roller blades.

Any use of a Commercial Condominium as authorized under **Section 3.1.2** and conducted in compliance with all applicable laws and ordinances shall not constitute a nuisance.

3.4 Vehicle and Parking Restrictions . No mobile home, camper or recreational vehicle, boat, truck, trailer or similar equipment shall be parked anywhere within the Development. For purposes herein, "truck" does not include a pickup truck that does not exceed one ton or a sports utility vehicle. Motorcycles and similar motorized vehicles shall be parked only within the parking spaces or such other areas specifically designated by the Board or Declarant for such vehicles. In addition, trucks may park on a temporary basis for delivery and pick-up purposes. In no event shall more than one vehicle be parked at any one time in any single parking space without the prior written approval of the Board.

Garage access and assigned parking spaces may not be sufficient in size to accommodate larger vehicles, including in particular sports utility vehicles and vans. It is each Owner's sole responsibility to confirm that the garage is accessible for the Owner's vehicle(s), that the Owner's vehicle(s) can fit within the Owner's assigned parking space(s), and that the Owner's vehicle can comply with the restrictions contained herein.

No unregistered automobiles, no automobiles with expired licenses, and no inoperable or dilapidated automobiles may be parked in the garage. There shall be no maintenance, or repairs (including oil or battery changing) or vehicle washing performed on any automobile within the garage except for any emergency repairs that are necessary in order to remove the vehicle to a proper repair facility. Parking stalls are to be used for parking of permitted vehicles only and shall not be used for storage or other purposes.

The Board reserves the right to adopt Rules regulating the use and operation of the garage, provided that the Rules are consistent with the restrictions set forth in this Declaration.

3.5 Towing Authority . Any vehicle wrongfully parked within the Development may be towed in compliance with the requirements and procedures of Vehicle Code section 22658 or any successor statute thereto. In addition and without limiting the foregoing or any other right or remedy available to the Board, the Board may impose monetary penalties for violation of any parking restrictions or Rules.

3.6 Animals . Normal and customary household domestic pets may be maintained within the Development under the following conditions:

(i) there shall be no more than two domesticated pets as defined in Civil Code section 1360.5(b) maintained within any Condominium unless otherwise authorized in writing by the Board;

(ii) Owners shall clean up immediately after their pets;

(iii) dogs shall be on a leash at all times held by a person capable of controlling the dog while within the Common Area, including elevators;

(iv) no animal shall be maintained for any commercial purposes;

(v) the use of the Common Area by pets shall be subject to such Rules as may be adopted by the Board;

(vi) after making a reasonable attempt to notify the Owner, the Association or any Owner may cause any unleashed animal found within the Common Area to be removed to a pound or animal shelter by calling the appropriate authorities. The Owner shall be responsible for all payments required to repossess the animal;

(vii) each Owner authorizing, bringing or keeping a pet within the Development shall be liable to other Owners, their family members, guests, invitees, tenants and contract purchasers, and their respective family members, guests and invitees, for any damage to persons or property proximately caused by any pet brought upon or kept within the Development by that Owner or by members of his or her family, guests or invitees;

(viii) Owners are required to inform the Association of the type of breed of pet upon commencement of occupancy and provide the Association with proof of rabies vaccination; and

(ix) in no event shall any Owner authorize, bring or keep within the Development (a) any pit bull, rottweiler, doberman pinscher, mastif, canaria presa, or any other breed known as a "fighting breed" or any dog being a mix thereof; or (b) any snakes, pigs, large lizards, spiders, rats or non-domesticated animals.

The Board, after notice and a hearing, may require the permanent removal from the Development of any animal that the Board, in its discretion, determines is a nuisance, a danger to the health or safety of any occupant, or otherwise interferes with the quiet use and enjoyment of occupants of any Condominium. The Board may find that an animal is a nuisance if the animal or its Owner continue to violate the Rules regulating pets after receipt of a demand from the Board to comply with the Rules.

3.7 Television or Radio Equipment . No television, video or radio poles, antennae, satellite dishes, cables or other transmission and/or reception fixtures or personal property (individually and collectively the "Antenna Equipment") shall be installed or maintained on any Condominium except as follows:

(i) Antenna Equipment that is one meter or less in length or diameter or diagonal measurement, provided that the location, color and screening requirements shall be in accordance with any guidelines imposed by the Architectural Committee, which guidelines shall comply with applicable State and federal laws regulating restrictions on Antenna Equipment; and

(ii) Antenna Equipment not covered under subparagraph (i) above, the installation of which is approved in advance by the Architectural Committee in accordance with the procedures described in **Article 7**.

Under no circumstances may any Antenna Equipment be attached to or affixed to any exterior building surface or extend beyond the boundaries of any Exclusive Use Common Area.

Nothing herein shall be construed to restrict in any manner Declarant's or the Board's right to authorize a cable television franchisee or other provider of similar services to provide cable television, satellite dish, radio or other similar services to the Development.

3.8 Residential Condominium Signs . Subject to the provisions of **Section 13.10** and Civil Code section 1353.6, no sign of any kind shall be displayed from any Condominium that is visible from any other Condominium except any sign approved by the Board either on an individual basis or pursuant to Rules adopted by the Board or as may be otherwise authorized by law.

3.9 Commercial Condominium Signs . No sign of any kind shall be displayed from any Commercial Condominium except normal and customary commercial signage that: (i) complies with applicable State and local ordinances; (ii) is placed within the designated sign band; and (iii) there is no movement or flashing if the sign is neon or lighted.

3.10 Clothesline . No exterior clothesline shall be erected or maintained on any Condominium; and there shall be no exterior drying or laundering of clothes on any balcony, patio, porch or other outside area of any Condominium unless otherwise authorized by the Board in writing.

3.11 Window Coverings . If the interior surfaces of windows are covered, the windows shall be covered with normal and customary window coverings such as curtains, drapes, shutters or blinds. In no event, temporarily or otherwise, shall any window be covered with paper, bed sheets or towels of any kind. The exterior side of window coverings shall be white or off-white unless approved otherwise in writing by the Architectural Committee. No exterior window coverings shall be permitted.

3.12 Automobile Maintenance . There shall be no maintenance (including car washing) or repairs performed on any automobile within the Development except for any emergency repairs that are necessary in order to remove the vehicle to a proper repair facility.

3.13 Alterations, Modifications or Additions . There shall be no alterations, modifications or additions made to any Condominium or any Improvement thereon except in compliance with the provisions of **Article 7**.

3.14 Compliance with Law . No Owner shall permit anything to be done or kept in his or her Condominium that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal agency. Nothing shall be done or kept in any Condominium that might increase the rate of or cause the cancellation of any insurance maintained by the Association.

3.15 Drilling . No drilling, mining, or quarrying operation shall be conducted anywhere within the Development at anytime.

3.16 Sound Transmissions . No Unit shall be altered in any manner that would increase sound transmissions, resonances or reverberations to any adjoining or other Unit, including, but not limited to, the replacement, modification or penetration of any flooring or floor covering, ceiling or wall that increases sound transmissions, resonances or reverberations to any other Unit except as authorized by the Architectural Committee. For example, the Architectural Committee may approve the installation of hardwood floors that do not have the same sound attenuation capabilities of carpeted floors as long as the floors satisfy the minimum acoustical standards required by this **Section 3.16** and any additional standards imposed by the Architectural Committee. No floor/ceiling assembly shall be modified to lower the Sound Transmission Class (STC) or Impact Insulation Class (IIC) rating below the original design criteria of any assembly between Units and no walls shall be modified to lower the Sound Transmission Class (STC) rating below the original design criteria of any partition between Units or between Units and Common Area.

Owners shall not rigidly attach any source of sound or vibration to walls that are used to separate residents within the Unit. This includes all audio speakers including monitor and flat screens that may have speakers built-in to the design. In addition, sources of vibration, such as motors shall not be attached to a wall that separates Units when an audible noise can be heard, at any level, in the adjacent unit. All flat screens or monitors shall have independent speakers that can be placed within the room without contacting the wall. Owners desiring to mount a monitor, flat screen, or speaker to a wall that separates Units must complete the installation by submitting a detailed plan to the Architectural Committee showing vibration isolation and performances that are achievable to control noise between Units. With approval, systems must be installed to prevent audible noise, at any level, in the adjacent Unit. Systems that do not achieve this level of isolation must be removed from the separating wall. No hobbies or related activities shall be conducted in any Unit that involves the use of power tools.

The Architectural Committee shall not grant approval to any floor or wall modification unless the modification includes an appropriate level of acoustical separation designed and approved by a qualified acoustical consultant to ensure that the modifications will not increase the sound transmissions, resonances or reverberations to any other Unit.

3.17 Storage Area Restrictions . No combustible, flammable or hazardous materials shall be stored in any Exclusive Use Common Area storage space at any time. The storage of any property shall

be in strict compliance with all federal, State and local laws and ordinances and with any Rules adopted by the Board regulating access to and use of the storage space. The Owner or occupant shall store property in the storage space at the Owner's or occupant's risk. The Association shall have no responsibility or duty to provide any security in connection with the storage of materials within the storage area and shall have no responsibility for any damage to any property or theft of any property from the storage area. It shall be the Owner's or occupant's sole responsibility to provide insurance against any of the foregoing.

ARTICLE 4 - Maintenance and Repair Obligations

4.1 Owner's Maintenance and Repair Obligations . Each Owner shall maintain his or her Unit and all Improvements therein in good condition and repair at all times, including, but not limited to, exterior and interior doors and walls (including exterior surfaces of bearing walls located within the Unit), cabinets, floors, appliances, trade fixtures, and all electrical, heating, plumbing and other utility fixtures situated within the Unit or partially within the Unit and partially within the Common Area and exclusively serving the Unit, such as electrical outlets. Each Owner, at that Owner's cost, shall periodically clean, maintain and repair any exterior door hardware and sidelights.

The Owner of each Commercial Condominium shall be responsible for the periodic cleaning of the windows serving the Commercial Condominium.

Subject to the provisions of **Section 4.7**, if damage to any of the foregoing is covered by insurance maintained by the Association, the Association, on request from the Owner, shall submit an appropriate claim if the claim exceeds the deductible and shall remit any available insurance proceeds to the Owner on receipt of satisfactory evidence that the proceeds are or will be used for repair. Any deductible amount shall be borne by the Owner. In lieu of filing a claim, the Board may elect to cover the amount that would have been paid through insurance through other funds available to the Association. Each Owner shall maintain any Exclusive Use Common Areas appurtenant to that Owner's Condominium in a neat and clean and sanitary condition at all times.

Each Owner shall maintain, repair and replace any smoke, natural gas or carbon monoxide detectors located in the Owner's Unit. The Association shall maintain any automatic fire sprinkler heads located in any Unit, provided that each Owner immediately shall notify the Association of any problems with any automatic sprinkler heads located in the Owner's Unit.

Any electrical wiring, plumbing pipes, drains, flues, heating ducts or other utility equipment that exclusively serves one Unit but is located in the Common Area shall be maintained and repaired by the Association; however, the maintenance, repair and/or replacement costs shall be paid by the Owner of the Unit. If the Owner fails to pay the cost, the Association may levy a reimbursement assessment against the Owner's Condominium. If the utility equipment serves two or more Units, the costs shall be borne by the Association. If the maintenance, repair and/or replacement involves equipment that exclusively benefits one Unit and equipment that benefits two or more Units, the Board shall allocate the cost between the Unit Owner and the Association in a fair and equitable manner. If the Association cannot determine with a reasonable degree of certainty whether the equipment served one or more Units, it shall be presumed that the equipment served more than one Unit.

In order to reduce the potential for water damage (including mold growth) within the Unit, each Owner shall perform each of the following steps: (i) periodically inspect the Unit for water leaks, other evidence of water intrusion (such as condensation on the windows or walls, water stains or other types of water damage) and for the presence of molds, fungi and their spores (collectively "Mold"); (ii) if any water leaks, water intrusion and/or Mold are detected, immediately take appropriate corrective steps to repair the leak and/or reduce water intrusion and repair any resulting water damage (including the removal of any Mold); (iii) maintain proper ventilation (particularly in the bathrooms) and humidity levels to reduce the risk of water damage (including Mold growth); (iv) periodically inspect refrigerator condensation pans, air conditioners (if applicable) and any other water-retaining appliances to ensure they are properly

functioning and not leaking water or otherwise creating water damage to the Unit (including Mold growth); (v) periodically inspect any carpeting or similar types of floor covering in bathrooms that may be conducive to Mold growth; (vi) replace heating and air conditioning filters not less frequently than quarterly or as recommended by the manufacturer; (vii) periodically inspect dryer ducts to ensure they are properly attached and functioning; and (viii) take such other prudent steps as may be appropriate to prevent water leaks and water intrusion and to repair all leaks, sources of water intrusion and water damage (including Mold growth) within the Unit.

In addition to the foregoing, each Owner shall comply with each of the following in performing the Owner's maintenance obligations: (i) the Guidelines described in **Section 4.3**; and (ii) commonly-accepted homeowners' maintenance obligations.

If any Owner fails to maintain his or her Unit or Exclusive Use Common Area as required herein, the Association, after notice and hearing as described in the Bylaws, may, but is not obligated to, enter the Condominium or Exclusive Use Common Area and perform the necessary maintenance and repair. The Association may levy a reimbursement assessment against the Condominium in the manner described in **Section 6.5**.

4.2 Association's Maintenance, Repair and Landscaping Obligations . The Association shall maintain in good condition and repair at all times the Common Area, including, but not limited to, foundations, columns, floor slabs, walkways, bearing walls, siding, windows, trim, roof, exterior staircases, utility rooms, elevators, hallways, garage, garage lifts, trash collection areas, walkways, and landscaping. The Association shall be responsible for the periodic cleaning of the exterior surfaces of all Residential Condominium windows and the repair and replacement of Residential Condominium windows.

Unless otherwise maintained or repaired by governmental entity or public or private utility company, the Association shall maintain in good condition and repair all utilities and sanitary sewer and storm drainage facilities situated within the Common Area, including, but not limited to, meters, distribution lines, catch basins, storage tanks, wires, ducts, flues, pumps, boilers, and pipes, but excluding any utility equipment and fixtures located within a Unit or partially within the Common Area and within the Unit and that exclusively serve that Unit, such as electrical outlets.

The Association shall have the Common Area periodically inspected for wood-destroying pests and organisms and shall take appropriate corrective measures therefor.

All landscaping to be maintained by the Association shall be maintained in a healthy and weed-free environment. The Association immediately shall remove and replace all dying or dead vegetation. The Association shall take appropriate steps to maintain the irrigation of the landscaping and to prevent damage resulting from misdirected and/or excessive watering.

In order to reduce the potential for water damage (including mold growth), the Association shall perform each of the following steps: (i) periodically inspect all portions of the Common Area that are accessible from areas maintained by the Association for water leaks, other evidence of water intrusion (such as condensation on windows or walls, water stains or other types of water damage) and for the presence of molds, fungi and their spores (collectively "Mold"); (ii) if any water leaks, water intrusion and/or Mold are detected, immediately take appropriate corrective steps to repair the leak and/or reduce water intrusion and repair any resulting water damage (including the removal of any Mold); (iii) maintain proper ventilation within enclosed areas and humidity levels to reduce the risk of water damage (including Mold growth); (iv) periodically inspect any water-retaining equipment to ensure that they are properly functioning and not leaking water or otherwise creating water damage (including Mold growth) to the Common Area and other areas maintained by the Association; and (v) take such other prudent steps as may be appropriate to prevent water leaks and water intrusion and to repair all leaks, sources of water intrusion and water damage (including Mold growth).

In addition to the foregoing, the Association shall comply with each of the following in performing the Association's maintenance obligations: (i) the Guidelines described in **Section 4.3**; and (ii) commonly-accepted homeowners' maintenance obligations.

The Association shall use only duly qualified, and to the extent required by law, duly licensed contractors in the State of California to perform all inspection, maintenance, repair, replacement and upgrade work on any Common Area Improvements.

If the Association requires access to a Unit in order to inspect, maintain, repair or replace any Common Area Improvements maintained by the Association, including the Utility Facilities described in **Section 2.5**, the Association shall provide the Unit occupants with such prior notice as is reasonable under the circumstances and no less than 96 hours' prior notice except in the event of an emergency. Owners must cooperate with the Association in providing the necessary access. Any Owner failing to cooperate shall be liable for any costs incurred by the Association in rescheduling inspections and any other costs incurred by the Association in maintaining or repairing Improvements that could have been prevented had timely access been granted. The Association may levy a reimbursement assessment as authorized in **Section 6.5** to recover its costs.

4.3 Inspection and Maintenance Guidelines and Schedules . Declarant shall provide each Owner and the Association with inspection and maintenance guidelines and schedules, including manufacturers' guidelines and schedules, for the inspection and maintenance of certain Improvements and personal property situated within the Development (collectively the "Guidelines"). Each Owner and the Association shall retain the Guidelines and shall take all appropriate steps to implement and comply with the Guidelines as required herein. Each Owner, on the transfer of the Owner's Condominium, shall deliver the Guidelines or complete copies thereof to the transferee on or before title is transferred. Replacement copies of the Guidelines may be obtained from Declarant as described in Section 4 of the Claims Procedure described in **Exhibit E** attached to this Declaration. Declarant may charge a reasonable fee for providing replacement copies.

The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines.

4.4 Maintenance Responsibility List . Attached to this Declaration as Appendix I is a list that identifies whether the Association or the Condominium Owner is responsible for the maintenance and repair of certain items located in or in close proximity to a Unit. The purpose of this list is to identify the specific items maintained either by the Association or the Owner as described in **Sections 4.1** and **4.2**. It is not intended to change the maintenance responsibilities set forth in **Sections 4.1** and **4.2**. The Board from time to time may update Appendix I by recording an amended Appendix I in the records of the City and County of San Francisco, California. The consent of the Members is not required as long as the allocation of the maintenance and repair responsibilities reflected in the amended Appendix I is consistent with the allocation responsibilities described in **Sections 4.1** and **4.2**.

4.5 Trash Removal . Each Residential Condominium Owner, at that Owner's cost, shall be responsible for the removal of all the trash and refuse from that Owner's Unit to the central trash collection points for the Residential Condominiums. The Association shall be responsible for the maintenance of the central trash collection points and for engaging a trash removal service for the periodic removal therefrom. Each Commercial Condominium Owner, at that Owner's cost, shall be responsible for engaging a trash removal service for the removal of trash from the Commercial Condominium. Each Commercial Condominium Owner shall comply with all applicable laws and ordinances concerning the handling, treatment, storage and disposal of trash, including hazardous wastes.

All trash or refuse shall be kept only in sanitary containers which containers shall be kept in the areas approved by the Board. Each Owner shall take all appropriate, proper and required precautions to protect Persons and Property from any injuries or damages from the trash or other refuse generated from the Owner's Unit and shall comply with all laws and ordinances regarding the disposal of any hazardous materials. The Board may adopt rules regulating the central trash collection areas. In addition, if the Board determines, in the Board's sole discretion, that a Residential Unit is generating trash in excess of the trash generated by other Residential Units, it may either: (i) reallocate trash collection costs so that the Unit generating the excess trash pays for the excess trash collection or (ii) require the Owner of the Unit to engage and pay for its own trash collection service, in which case the Owner may no longer use

the trash collection areas available to the other Residential Units except as may be authorized by the Board in writing.

4.6 Cooperation and Access . Each Owner and occupant shall fully cooperate with the agents of the Association in the performance of the Association's maintenance and repair obligations described in **Section 4.2** above. Such cooperation shall include, but is not limited to, immediate notification to the Board or its managing agent of any maintenance or repair problems for which the Association is responsible and access to the Owner or occupant's Condominium and Exclusive Use Common Area as may be necessary to inspect and, if appropriate, to perform any necessary maintenance or repairs.

4.7 Reimbursement . If the Association incurs any maintenance or repair costs because of the willful or negligent act or omission of any Owner or occupant or their family members, guests, agents or pets (including, but not limited to, any damage to the Common Area caused by a water leak or overflow from the Owner's Unit), the Association shall charge the cost to the Owner of the Condominium responsible for the costs and may levy a reimbursement assessment as described in **Section 6.5**. The Owner immediately shall pay the charge or reimbursement assessment to the Association, together with interest thereon at the rate of 12% per annum, but not in excess of the maximum rate authorized by law. If the Owner disputes the charge, the Owner shall be entitled to notice and a hearing as provided in **Section 5.6.4**. The Association shall not charge the Owner to the extent that the cost is met through insurance maintained by the Association, provided that any deductible amount shall be paid by the Owner.

ARTICLE 5 - The Association

5.1 Formation of the Association . The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California. The Association shall commence operations no later than the date that assessments commence. Pending the commencement of the Association's operations, Declarant shall perform the duties and shall have the rights of the Association as described herein.

5.2 Governing Body . The governing body of the Association shall be the Board. It shall be the responsibility of the Board to ensure that the Association exercises its rights and performs its duties as described within this Declaration, the Articles, the Bylaws and any amendments thereto.

The Board shall adopt Rules in accordance with procedures required by Civil Code sections 1357.100 through 1357.150 regarding the elections to the Board and related matters that satisfy the requirements set forth in Civil Code section 1363.03.

5.3 Membership . Each Owner shall automatically be a Member of the Association. If there is more than one fee title Owner of a Condominium, each Owner shall be a Member. The holder of a security interest in a Condominium shall not be a Member of the Association except and until that holder obtains both the legal and equitable interest in the Condominium. Membership shall be appurtenant to the Condominium and may not be separated therefrom. Any transfer of an Owner's interest in a Condominium (other than a security interest), by operation of law or otherwise, automatically transfers the membership to the Owner's successor in interest. No Owner may resign or revoke his or her membership for any reason.

5.4 Membership Classes and Voting Rights . The Association shall have the following two classes of voting memberships:

5.4.1 Class A. Class A Members are all Owners except the Declarant. Class A Members shall be entitled to one vote for each Condominium in which he or she owns an interest. If more than one Owner owns an interest in a Condominium, only one vote may be cast with respect to that Condominium.

5.4.2 Class B. The Class B Member shall be the Declarant, who shall be entitled to three votes for each Condominium owned by the Declarant. Class B membership shall cease and be irreversibly converted to Class A on the first to occur of the following:

(a) the total outstanding votes held by the Class A Members equal the total outstanding votes held by the Class B Members; or

(b) the second anniversary of the first conveyance of a Condominium in the Development.

Voting rights shall vest at the time that assessments are levied against the Owner's Condominium.

Except as set forth below, all matters requiring the approval of the Members shall be approved if: (i) approved by a majority of the votes cast either in person or by proxy at a duly-held regular or special meeting at which a quorum was present; (ii) approved by a majority of the written ballots cast in compliance with the requirements of Corporations Code section 7513 or any successor statute thereto; or (iii) approved by unanimous written consent of all the Members. Notwithstanding the foregoing, approval by the Members shall be subject to each of the following:

(1) Two Membership Classes. As long as two classes of voting membership exist, any action by the Association that requires approval by the Members shall require approval by the members of each class.

(2) Single Membership Class/Declarant-Owned Condominiums. If one class of voting membership exists and Declarant owns any Condominiums, any action by the Association that requires approval by the Members shall require approval by the Members including Declarant's vote(s) and approval by the Members excluding Declarant's votes.

(3) Greater Than a Majority. If, under the terms of this Declaration, a particular action requires approval by more than a majority, the action shall be approved by the Members only if the required percentage of votes approves the action.

(4) Completion Bond and Section 896 Claims. Votes of the Declarant shall be excluded as provided in **Sections 5.11 and 5.14** of this Declaration.

(5) Amendments. Member approval requirements for any amendments to this Declaration, the Articles or Bylaws shall comply with the amendment requirements set forth in the applicable document.

(6) Legal Requirements. If the voting requirements and/or procedures conflict with any applicable statutory requirements, the statutory requirements shall control.

5.5 Joint Ownership Votes . The vote that is attributed to each Condominium may not be cast on a fractional basis. If the Condominium has more than one Owner and the Owners are unable to agree as to how the vote shall be cast, the vote shall be forfeited on the matter in question. Any vote cast by an Owner for any Condominium is presumed conclusively to be the vote cast by all the Owners of that Condominium. If more than one Owner casts a vote attributed to a Condominium on any matter on which only one vote could be cast for that Condominium, the votes cast by such Owners shall be counted as one vote if the votes are the same; and if the votes are different, the vote cast by such Owners shall not be counted and shall be forfeited.

5.6 Powers of the Association . The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the general nonprofit mutual benefit corporation laws of California, subject only to such limitations on the exercise of these powers as are set forth in the Articles, Bylaws and this Declaration. The Association shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the Bylaws and to do and perform any act that may be necessary or proper for or incidental to the

exercise of any of the express powers of the Association, including, without limitation, each of the following:

5.6.1 Levying Assessments: The Board shall establish, fix and levy assessments against the Condominiums and collect and enforce payment of such assessments in accordance with the provisions of **Article 6** of this Declaration.

5.6.2 Adopting Rules: The Board may adopt, amend and repeal Rules as it considers appropriate. Rules shall apply generally to the management and operation of the Development and/or the conduct of the business and affairs of the Association and may regulate the use and enjoyment of the Common Area, the use of any commonly-metered utilities that are paid by the Association and such other matters as are authorized in this Declaration. The Rules shall satisfy the requirements of Civil Code section 1357.110 and, to the extent applicable, the procedural requirements for the adoption, amendment or repeal of the Rules as set forth in Civil Code section 1357.130 and for the reversal of Rules as set forth in Civil Code section 1357.140. A copy of the Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner; and a copy shall be posted in a conspicuous place within the Development if an appropriate space is available for such posting. If any provision of this Declaration, the Articles or the Bylaws is inconsistent with or materially alters any Rules, this Declaration, the Articles and the Bylaws shall control to the extent of any such inconsistencies. Members shall have the same access to the Rules as they have to the accounting books and records of the Association.

Any Rules adopted by the Board shall apply to all Owners or occupants in a uniform and nondiscriminatory manner. The Board may adopt a Rule as the result of an act or omission of any Owner or occupant or their family members or guests or a Rule that does not directly affect all Owners or occupants in the same manner as long as the Rule applies to all Owners or occupants.

5.6.3 Borrowing Money: The Board may borrow money to meet any anticipated or unanticipated cost of the Association and, subject to the provisions of **Section 5.12(ix)**, may mortgage, encumber or pledge Association assets (including, but not limited to, assessments) as security for such borrowing.

5.6.4 Imposing Disciplinary Action: In addition to any other enforcement rights described in this Declaration and the Bylaws or as may be authorized by law and subject to the due process requirements imposed by this Declaration, the Bylaws or by law, the Board may take any of the following actions against any Person whose act or failure to act violates or threatens to violate any provisions of this Declaration, the Bylaws or Rules: (a) impose monetary penalties, including late charges and interest; (b) suspend voting rights in the Association; and (c) commence any legal or equitable action for damages, injunctive relief or both. Subject to the provisions of **Section 13.8**, the determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Board. Any legal action may be brought in the name of the Association on its own behalf and on behalf of any Owner who consents; and, except as otherwise provided herein, the prevailing party in such action shall be entitled to recover costs and reasonable attorneys' fees. The Board, in its sole discretion, may resolve or settle any dispute, including any legal action in which the Association is a party, under such terms and conditions as it considers appropriate.

(i) If the Board adopts a policy imposing monetary penalties, including any fee on any Member for a violation of the governing documents or the Rules, including any monetary penalty relating to the activity of a 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. The Board may change the schedule from time to time and shall distribute a notice of such changes to the Members in the same manner as the schedule of penalties.

(ii) The imposition of any disciplinary action, including, but not limited to, the imposition of monetary penalties or the suspension of use and/or voting privileges except as otherwise noted herein, shall be subject to the following procedures and requirements:

(a) Notice of Hearing: Prior to the time the Board meets to consider or impose discipline upon a Member, the Board shall notify the Member, by either personal delivery or

first-class mail, at least 15 days prior to the meeting. The notice shall contain, at a minimum, the date, time and place of the meeting, the nature of the alleged violation for which the Member may be disciplined, and a statement that the Member has a right to attend and may address the Board at the meeting.

(b) Hearing: If requested by the Member, the Board shall conduct the disciplinary proceeding in executive session. The Member, the Member's legal counsel, and the Association's legal counsel shall be entitled to attend the executive session meeting. The Board may interview witnesses and other interested parties in executive session.

(c) Notice of Action Taken: If the Board elects to impose discipline on the Member, the Board shall notify the Member of the disciplinary action within ten days following the election to impose the disciplinary action.

(d) No Forfeiture: Under no circumstances may the Association cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's Unit on account of the failure of the Owner to comply with the provisions of this Declaration, Articles, Bylaws or Rules, except by judgment of a court or decision of an arbitrator or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessments duly levied by the Association.

(e) Assessment Charges: The provisions of this **Section 5.6.4** do not apply to charges imposed against a Member for reasonable late payment penalties or charges to reimburse the Association for loss of interest and for costs reasonably incurred (including attorneys' fees) in collecting delinquent assessments.

5.6.5 Delegating Duties: Except as may be limited by the Bylaws, the Board may delegate any of the Association's powers and duties to its employees, committees or agents, including a professional management agent.

5.6.6 Implementing Special Fees: The Board may implement special fees to reimburse the Association for special costs incurred as a result of actions taken by Owners. By way of example, the Association may establish a moving fee to reimburse the Association for excess trash collection costs resulting from the move. Fees not paid in a timely manner may be collected through a reimbursement assessment levied against the Owner's Condominium.

5.6.7 Dispute Resolution Procedures: The Board shall implement dispute resolution procedures for disputes between the Association and a Member involving the rights, duties or liabilities under the Governing Documents, the Davis-Stirling Common Interest Development Act (Civil Code sections 1350-1376) or the Nonprofit Mutual Benefit Corporation Law (Corporations Code sections 7110-8910) that comply with the requirements of Civil Code sections 1363.810 through 1363.850.

5.7 Duties of the Association . In addition to the duties described in the Articles or Bylaws, or elsewhere in this Declaration, the Association shall have the duty to manage the Common Area; perform the maintenance as described in **Section 4.2**; prepare, periodically update, and comply with the maintenance and inspection guidelines described in **Section 4.3**; prepare and distribute financial statements, reports and the other documents and notices described in **Section 5.10**; enforce bonded obligations as described in **Section 5.11**; levy and collect assessments as described in **Article 6**; prepare when required the reserve studies described in **Section 6.3** and annually review and implement adjustments as required; and procure, maintain and review the insurance as described in **Article 8**. The Association shall perform such other acts as may be reasonably necessary to exercise its powers to perform its duties under any of the provisions of this Declaration, the Articles, Bylaws, Rules or Board resolutions.

5.8 Taxes and Assessments . The Association shall pay all real and personal property taxes and assessments and all other taxes levied against the Association, the Common Area or the personal property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

Until such time as real property taxes against the Property are segregated so that real property taxes are assessed against each Condominium (in addition to any supplemental tax assessments levied against any Condominium), the non-segregated tax amount shall be allocated among all the Condominiums in the same manner that regular assessments are allocated as described in **Section 6.9** and if any portion of the regular assessments are prorated among the Condominiums, the non-segregated tax amount shall be allocated in the same manner. The Association shall take all appropriate steps to collect each Condominium's allocable share so that the non-segregated taxes may be paid in a timely and proper manner. The Association may levy a special assessment against the Condominiums to collect the non-segregated tax amount. Any Owner who breaches the Owner's duty to pay the Owner's allocable share in a timely and proper manner shall be liable for any penalties, interests, fees or other such costs incurred as a result of the breach.

5.9 Utility Service to the Common Area . The Association shall acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other necessary utility services for the Common Area.

5.10 Reporting and Notice Requirements . The Association shall prepare and distribute the documents described in this **Section 5.10**. The reporting requirements incorporate the requirements imposed on homeowners associations under the Davis-Stirling Common Interest Development Act ("Act") in effect as of January 1, 2007. If the reporting requirements in the Act are subsequently amended, the reporting requirements in the Act, as amended, shall apply.

5.10.1 Pro Forma Operating Budget. A pro forma operating budget for each fiscal year shall be distributed not less than 30 days nor more than 90 days before the beginning of the fiscal year consisting of at least the following:

- (1) Estimated revenue and expenses on an accrual basis.
- (2) A summary of the Association's reserves based on the most recent reserves review or study conducted pursuant to **Section 6.3**, based only on assets held in cash or cash equivalents, which shall be printed in bold type and shall include the following:
 - (A) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component which the Association is obligated to maintain (collectively the "Major Components");
 - (B) as of the end of the fiscal year for which the study was prepared:
 - (i) the current estimate of cash reserves necessary to repair, replace, restore or maintain the Major Components;
 - (ii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain the Major Components; and
 - (iii) if applicable, the amount of funds received from either a compensatory damage award or settlement to the Association from any Person for injuries to property, real or personal, arising out of any construction or design defects and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to **Section 5.10.1(2)(B)(ii)**. In lieu of complying with the foregoing requirements, if the Association is obligated to issue a review of its financial statement pursuant to **Section 5.10.2** below, the Association may include in the review a statement containing all of the information required by this **Section 5.10.1(2)(B)(iii)**;
 - (C) the percentage that the amount in **Section 5.10.1(2)(B)(ii)** is to the amount in **Section 5.10.1(2)(B)(i)**; and

(D) the current deficiency in reserve funding expressed on a per Unit basis. The figure shall be calculated by subtracting the amount determined for purposes of **Section 5.10.1(2)(B)(ii)** from the amount determined for purposes of **Section 5.10.1(2)(B)(i)** and then dividing the result by the number of separate interests within the Association, except that if assessments vary by the size or type of ownership interest, then the Association shall calculate the current deficiency in a manner that reflects the variation.

(3) A statement as to the following:

(A) whether the Board has determined to defer or not undertake repairs or replacement of any Major Component with a remaining life of 30 years or less, including a justification for the deferral or decision not to undertake the repairs or replacement;

(B) whether the Board, consistent with the reserve funding plan adopted pursuant to Civil Code section 1365.5(e), has determined or anticipates that the levy of one or more special assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves therefor; and if so, the statement shall also set out the estimated amount, commencement date and duration of the assessment;

(C) the mechanism or mechanisms by which the Board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacement or repair, or alternative mechanisms; and

(D) whether the Association has any loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment and when the loan is scheduled to be retired.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement or additions to the Major Components. The report shall include, but need not be limited to, reserve calculations made using the formula described in Civil Code section 1365.2.5(b)(4) and may not assume a rate of return on cash reserves in excess of 2 percent above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.

In lieu of the distribution of the pro forma operating budget, the Board may elect to distribute a summary of the budget to all its Members with a written notice in at least 10-point bold type on the front page of the summary that the budget is available at the Association's business office or another suitable location within the boundaries of the Development and that copies will be provided on request and at the expense of the Association. If any Member requests a copy of the pro forma operating budget to be mailed to the Member, the Association shall provide the copy to the Member by first-class mail at the expense of the Association, which copy shall be mailed within five days of the receipt of the request.

5.10.2 Reserve Funding Plan Summary. Commencing January 1, 2009, a summary of the reserve funding plan adopted by the Board, as specified in Civil Code section 1365.5(e)(4). The summary shall include notice to Members that the full reserve study plan is available upon request and the Association shall provide the full reserve plan to any Member upon request.

5.10.3 Financial Statement Review. A review of the financial statement of the Association shall be prepared in accordance with Generally Accepted Accounting Principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income of the Association exceeds \$75,000. A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

5.10.4 Policies and Practices Statement. A statement of the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of assessments. A copy of this statement shall be distributed to each Owner and any Mortgagee no less than 30 days nor more than 90 days immediately preceding the beginning of each fiscal year.

5.10.5 Governing Documents. Copies of this Declaration, the Articles, Bylaws, Rules and other applicable documents as required by Civil Code section 1368(a) shall be provided any Owner within ten days of the mailing or delivery of a written request. The items required to be made available pursuant to this **Section 5.10.5** may be maintained in electronic form and requesting parties shall have the option of receiving them by electronic transmission or machine readable storage media if the Association maintains these items in electronic form. The Board may impose a fee to provide these materials but not to exceed the Association's reasonable costs in preparing and reproducing the material.

5.10.6 Minutes. A statement describing the Members' rights to obtain copies of the minutes of meetings of the Board, including a description of how and where these minutes may be obtained shall be distributed to the Members at the time the Pro Forma Operating Budget described in **Section 5.10.1** is distributed to the Members.

5.10.7 Dispute Resolution Summary. A dispute resolution summary shall be provided to the Members either at the time the Pro Forma Operating Budget described in **Section 5.10.1** is distributed to Members or in the manner set forth in Corporations Code section 5016 and shall include a description of the Association's internal dispute resolution procedures required by Civil Code section 1363.850 and the following statement:

Failure of a member of the Association to comply with the alternative dispute resolution requirements of Civil Code section 1369.520 may result in the loss of your right to sue the Association or another member of the Association regarding enforcement of the governing documents or the applicable law.

5.10.8 Insurance Summary. A summary of the Association's property, general liability, earthquake, flood and fidelity insurance policies, if any (individually and collectively referred to as the "Policy" or "Policies"), shall be distributed to the Members not less than 30 days nor more than 90 days preceding the beginning of the Association's fiscal year. The summary shall include the following information on the Policies:

- (A) the name of the insurer;
- (B) the type of insurance;
- (C) the Policy limits of the insurance; and
- (D) the amount of deductibles, if any.

The Association, as soon as reasonably practical, shall notify its Members by first-class mail if any of the Policies have lapsed, been cancelled and not immediately renewed or restored or if there is a significant change such as a reduction in coverage or limits or an increase in the deductible for any Policy. If the Association receives any notice of non-renewal of a Policy, the Association immediately shall notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

To the extent that the information required to be disclosed as described in this **Section 5.10.8** is specified in the insurance policy declaration page, the Association may meet its disclosure obligations by making copies of that page and distributing copies to all its Members.

The summary required in this **Section 5.10.8** shall contain, in at least 10-point boldface type, the following statement:

This summary of the Association's policies of insurance provides only certain information as required by subdivision (f) of section 1365 of the Civil Code and should not be considered a substitute for the complete policy terms and conditions contained in the

actual policies of insurance. Any Association member, upon request and reasonable notice, may review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property, or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.

5.10.9 Assessment/Foreclosure Notice. A written notice regarding assessments and foreclosures required by Civil Code section 1365.1(b) shall be distributed to each Member during the 60-day period immediately preceding the beginning of the Association's fiscal year. The notice shall be printed in at least 12-point type.

5.10.10 Architectural Approval/Dispute Resolution Procedure Notices. The Association shall annually provide the Members with notice of the requirements for approval by the Architectural Committee in accordance with the procedures described in **Article 7** for physical changes to the Condominiums. The notice shall describe the types of changes that require approval, shall include a copy of the procedure used to review and approve or disapprove a proposed change, and shall include a description of the dispute resolution procedures implemented by the Board as required under **Section 5.6.7**.

5.10.11 Secondary Notice Address. A Member may provide written notice by facsimile transmission or United States mail to the Association of a secondary address. If a secondary address is provided, the Association shall send any and all correspondence and legal notices required, pursuant to Civil Code sections 1365 through 1365.1, 1365.2, 1365.2.5 and 1365.5, to both the primary and the secondary address.

5.11 Enforcement of Bonded Obligations . If the Association is the obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of the Declarant or a successor or assign to complete the Common Area Improvements not completed at the time the California Department of Real Estate issued a final subdivision report, the Board will consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any Improvement for which a notice of completion has not been filed by the later of: (i) 60 days after the completion date specified for that Improvement in the "planned construction statement" appended to the Bond; or (ii) 30 days after the expiration of any written extension given by the Association. If the Board fails to consider and vote on the action to enforce the obligations under the Bond, or if the Board decides not to initiate action to enforce the obligations under the Bond, then on receipt of a petition signed by Owners representing not less than 5% of the total voting power of the Association, the Board shall call a special meeting of Owners for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the Bond. The Board shall give written notice of the meeting to all Owners entitled to vote in the manner provided in this Declaration or in the Bylaws for notices of special meetings of Owners. The meeting shall be held not less than 35 days nor more than 45 days after receipt of the petition. At the meeting, the vote in person or by proxy by a majority of the Owners entitled to vote (other than Declarant) in favor of taking action to enforce the obligations under the Bond shall be considered the decision of the Association; and the Board shall implement this decision by initiating and pursuing appropriate action in the name of the Association.

Upon satisfaction of the Declarant's obligation to complete the Common Area Improvements, the Board shall acknowledge in writing that it approves the release of the bond and shall execute any other documents or instruments as may be necessary or advisable to effect the release of the Bond. The Board shall not condition its approval to release the Bond on the satisfaction of any condition other than the completion of the Common Area Improvements as described on the "planned construction statement". Any dispute between the Declarant and the Association regarding the release of the Bond shall be

resolved in accordance with the Bond escrow instructions or, if these instructions are not operative for any reason, in accordance with the procedures of **Article 12**.

5.12 Limitations on Authority of the Board. The Association is prohibited from taking any of the following actions:

(i) except as otherwise provided in law, or order of the court, or an order pursuant to a final and binding arbitration decision, the Association shall not deny an Owner or occupant physical access to his or her Unit, either by restricting access through the Common Areas to the Owner's Unit or by restricting access solely to the Owner's Unit;

(ii) the Association may not voluntarily assign or pledge the Association's right to collect payments or assessments or to enforce or foreclose a lien to a third party except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or State law when acting within the scope of that charter or license as security for a loan obtained by the Association; however, the foregoing provision may not restrict the right or ability of the Association to assign any unpaid obligations of a former Member to a third party for purposes of collection;

(iii) adopt a Rule or regulation that arbitrarily or unreasonably restricts an Owner's ability to market the Owner's Condominium; or

(iv) establish an exclusive relationship with a real estate broker through which the sale or marketing of Condominiums is required to occur. This restriction does not apply to the sale or marketing of Common Areas owned by the Association.

Furthermore, the Board shall not take any of the following actions except with the consent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code section 7513 or any successive statute thereto, of a simple majority of the Members other than Declarant constituting a quorum of more than 50% of the voting power of the Association residing in Members other than the Declarant:

(v) incur aggregate expenditures for capital Improvements to the Common Area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year;

(vi) sell during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year;

(vii) pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse a member or officer for expenses incurred in carrying on the business of the Association;

(viii) enter into a contract with a third Person to furnish goods or services for the Common Area or the Association for a term longer than one year with the following exceptions:

(a) a management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration;

(b) a contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided the term does not exceed the shortest term for which the supplier will contract at the regulated rate;

(c) prepaid casualty or liability insurance policies not to exceed three years' duration, provided the policy permits for short rate cancellation by the insured;

(d) lease agreements for laundry room fixtures and equipment not to exceed five years' duration, provided the Declarant does not have a direct or indirect ownership interest of 10% or more in any lessor under such agreements;

(e) agreements for cable television services and equipment or satellite dish television services and equipment not exceeding five years in duration, provided the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of 10% or more;

(f) agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services not exceeding five years' duration, provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of 10% or more; and

(g) a contract for a term not to exceed three years that is terminable by the Association after no longer than one year without cause, penalty or other obligation upon 90 days written notice of termination to the other party; or

(ix) borrow money secured by any Association assets as authorized under **Section 5.6.3.**

5.13 Notice of Significant Legal Proceedings . Notwithstanding anything herein to the contrary, not later than 30 days prior to the filing of any civil action against the Declarant or other developer for alleged damage to the Common Area, alleged damage to the separate interests that the Association is obligated to maintain or repair, or alleged damage to the separate interests that arises out of, or is integrally related to, damage to the Common Area or separate interests that the Association is obligated to maintain or repair, the Board shall provide written notice to each Member of the Association. The notice shall specify the date and location of the meeting and both of the following:

(i) that a meeting will take place to discuss problems that may lead to the filing of a civil action; and

(ii) the options, including civil actions, that are available to address the problems.

If the Board in good faith determines that there is insufficient time to provide prior notice to the Members as required herein prior to the expiration of any applicable statute of limitations, 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 30 days following the commencement of the proceeding, the Board shall provide the Members with notice as required herein.

5.14 Civil Code Sections 896 and 897 Claims . The sole and exclusive authority to initiate claims on behalf of the Association in connection with Improvements or landscaping maintained by the Association for violations of the functionality standards set forth in Civil Code sections 896 and 897 shall rest with the Board members elected solely by Class A Members described in **Section 5.4.1** of this Declaration (the "Non-Declarant Directors"). Any Non-Declarant Director may at any time request a meeting for the purpose of discussing, inspecting, investigating and/or initiating any claims under Civil Code sections 896 or 897. Notice of the meeting shall be sent in the same manner as notice for special meetings of the Board. Any member of the Board appointed by Declarant or elected by votes cast by Declarant shall be entitled to attend the meeting but shall not be entitled to vote. The meeting shall be open for all Members of the Association unless the Non-Declarant Directors adjourn to an executive session as authorized by the Bylaws. The decision of a majority of the Non-Declarant Directors shall control. If the Non-Declarant Directors elect to initiate a claim, the authority to initiate a claim also shall require the approval of the votes cast by a majority of the Class A Members present in person or by proxy at a duly-held meeting. Any Non-Declarant Director may call a special meeting of the Members for this purpose. For purposes of this **Section 5.14**, if the Class B membership has been converted to Class A membership as described in **Section 5.4**, the quorum requirements shall be based on the total votes of the Class A Members other than the votes held by Declarant and the Declarant votes shall not count for approval or disapproval purposes. The claim is subject to the provisions and procedures set forth in **Article 12**. If requested by the Non-Declarant Directors, the Association shall provide the administrative support for the notice and conduct of its meetings and any meeting of the Members called to approve the initiation of a claim. In addition, the Association shall provide such reasonable financial support as may be necessary in order for the Non-Declarant Directors to inspect, investigate and/ or initiate the claim on behalf of the Association, subject to the applicable requirements and procedures set forth in **Sections 5.13, 6.6** and **Article 12**. The provisions of this **Section 5.14** are effective automatically on the date the first Non-Declarant Director is elected to the Board.

5.15 Access to Association Records . The Association shall comply with the requirements of Civil Code section 1365.2 in making the "Association Records" and "Enhanced Association Records", as defined in Civil Code section 1365.2(a), available for copy and inspection unless exempt under the provisions of Civil Code section 1365.2(n).

ARTICLE 6 - Assessments

6.1 Obligations to Pay Assessments . The Owner of each Condominium is obligated to pay any assessments levied against that Owner's Condominium on or before the due date of the assessment. If there is more than one Owner of the Condominium, the obligation is joint and several. Each Owner on acceptance of a deed to a Condominium automatically personally assumes the obligation to pay any assessments against the Owner's Condominium (including, but not limited to, any portion of the annual regular assessment not yet due and payable) and agrees to allow the Association to enforce any assessment lien established hereunder by nonjudicial proceedings under the power of sale or by any other means authorized by law. The Owner shall be liable for the full assessment levied against that Owner's Condominium regardless of the Owner's possession or use of the Condominium, the Common Area or any services rendered by the Association. The Owner has no right or power to commit or omit any act, such as waiving the right to use the Common Area, in an attempt to eliminate or reduce the assessments against that Owner's Condominium. An assessment shall be both a personal obligation of the Owners of the Condominium against which the assessment is levied and, on the recordation of a notice of delinquent assessment, a lien against the Condominium. Any Owner who transfers a Condominium shall remain personally liable for any unpaid assessments that accrued on or before the date of the transfer. No Owner shall be liable for any defaults of the Owner's predecessor in interest in the payment of any assessment that has accrued prior to the Owner taking title to the Property unless that Owner expressly assumes the obligation to cure the delinquent assessments. Notwithstanding the foregoing, any Owner who takes title to a Condominium on which a lien for a delinquent assessment has been established will take title subject to the lien and the Association's enforcement remedies as a result thereof unless the Owner takes title under a foreclosure or trustee sale resulting from a foreclosure or

exercise of a power of sale under a Mortgage, deed of trust, or other lien recorded before the recordation of the notice of delinquent assessment and except as provided in **Section 10.3**.

6.2 Annual Regular Assessment . Prior to the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the annual regular assessment for the forthcoming fiscal year. At such meeting, the Board shall review the preliminary pro forma operating budget prepared for the forthcoming fiscal year, any written comments received from Members and Mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate and subject to such Member approval as may be required by **Section 6.6**, the Board will establish an annual regular assessment for the forthcoming fiscal year. Each annual regular assessment shall include a portion for reserves as described in **Section 6.3**.

If the Board for any reason fails to take the appropriate steps to establish the annual regular assessment for the next fiscal year, the annual regular assessment for the preceding fiscal year shall continue in effect subject to the Board's right at anytime during the next fiscal year to adjust the assessment pursuant to the procedures described herein.

6.3 Reserves, Reserve Accounts and Reserves Study . Each annual regular assessment shall include a portion for reserves in such amount as the Board in its discretion considers appropriate to meet the cost of the future repair, replacement or additions to the Major Components as described in **Section 5.10.1** that the Association is obligated to maintain and repair. For all purposes in this Declaration and in the Bylaws, reserve accounts shall mean: (i) the funds that the Board has identified for the foregoing purposes ("Regular Reserve Funds") and (ii) the funds received and not yet expended or disposed from either a compensatory damage award or settlement to the Association from any Person for injuries to property, real or personal arising from any construction or design defects (the "Construction Reserve Funds"). Construction Reserve Funds shall be separately itemized from funds designated as Regular Reserve Funds.

Reserve funds shall be deposited in a separate account; and the signatures of at least two persons, who shall either be members of the Board or one officer who is not a member of the Board and a member of the Board, shall be required to withdraw monies from the reserve account. Reserve funds may not be expended for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, Major Components that the Association is obligated to maintain.

Notwithstanding the foregoing, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash-flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reason that the transfer is needed and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, provided that the Board, on the making of a finding supported by documentation that a temporary delay is in the best interest of the Development, may delay temporarily the restoration. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account and, if necessary, shall levy a special assessment to recover the full amount of the expended funds within the time limits required herein. This special assessment shall be subject to the assessment increase restrictions set forth in **Section 6.6** and Civil Code section 1366(b).

If the Board elects to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of that decision in the next available mailing to all Members pursuant to Corporations Code section 5016. The notice shall inform Members of the availability of an accounting of these expenses. The Board shall distribute a written accounting of this expense to the Members on at least a quarterly basis, with the first accounting to be delivered no later than the 30th day following the Board's decision to use reserve funds for litigation, either directly or through a transfer to operating funds. In any proposed litigation in which the amount in controversy is expected to exceed \$25,000, the first accounting shall include a description of expenses paid to date, a description of the principal terms and conditions of any contract with any Person providing services in connection with the litigation, including attorneys and expert witnesses, a good faith estimate of the total legal fees, expert fees and other litigation costs that may be incurred, and a sample disclosure that Members should provide prospective purchasers, lenders and other parties that have obtained or may

obtain an interest in the Owner's Condominium regarding the litigation. In each subsequent accounting, the information required in the first accounting shall be appropriately updated.

At least once every three years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Components that the Association is obligated to repair, replace, restore or maintain as a part of a study of the reserve account requirements of the Development if the current replacement value of the Major Components is equal to or greater than one-half of the gross budget of the Association, excluding the Association's reserve account for that period. **The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.**

The study, at a minimum, shall include:

(i) identification of the Major Components that the Association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years;

(ii) identification of the probable remaining useful life of the Major Components identified in subparagraph (i) as of the date of the study;

(iii) an estimate of the cost of repair, replacement, restoration, or maintenance of the Major Components identified in subparagraph (i) during and at the end of its useful life;

(iv) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the Major Components during and at the end of its useful life after subtracting total reserve funds as of the date of the study; and

(v) a reserve funding plan that indicates how the Association plans to fund the contribution identified in paragraph (iv) to meet the Association's obligations for the repair and replacement of all Major Components with an expected remaining life of 30 years or less, not including those components that the Board has determined will not be replaced or repaired. The plan shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan. The plans shall be adopted by the Board at an open meeting before the membership of the Association as described in Civil Code section 1363.05. If the Board determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the Board that is consistent with the procedure described in Civil Code section 1366.

As used herein, "reserve accounts" has the meaning set forth in Civil Code section 1365.5(f) or any successor statute thereto.

6.4 Special Assessments . Subject to the restrictions described in **Section 6.6**, the Board may levy a special assessment if the Board in its discretion determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including, but not limited to, expenses resulting from inadequate reserves, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital Improvements, inadequate insurance proceeds, or other unanticipated expenses. The Board may levy the entire special assessment immediately or levy it in installments over a period the Board considers appropriate.

6.5 Reimbursement Assessments . The Board shall have the authority to levy reimbursement assessments against one or more Condominium Owners to reimburse the Association for any costs incurred or to be incurred by the Association as the result of any act or omission of any Owner or occupant of any Condominium or their family members, guests, agents or pets. The levy shall not include any portion that is paid or will be paid by any insurer under a policy maintained by the Association. Payment of the deductible amount shall be the responsibility of the Owner and is subject to a reimbursement assessment. If the reimbursement assessment is levied and paid before all or any portion of the costs have been incurred by the Association and the amount paid exceeds the costs incurred, the Association promptly shall refund the excess to the Owner. If the costs exceed the amount,

the Owner shall reimburse the Association within 30 days thereafter. If payment is not made when due, the payment shall be considered a delinquent assessment and the Association may enforce the delinquent assessment as described in **Section 6.10** subject to the non-judicial foreclosure restrictions described in this **Section 6.5**.

In addition to reimbursing the Association for costs necessary to repair any Common Area Improvements or other property that is maintained by the Association, the Association may seek reimbursement for any costs incurred by the Association, including attorneys' fees, to bring the Owner or occupant or the Owner's Condominium into compliance with this Declaration, the Articles, Bylaws or Rules. A reimbursement assessment may not be levied against any Condominium until notice and hearing have been provided the Owner as described in **Section 5.6.4**; and under no circumstances may a reimbursement assessment (or a monetary penalty imposed by the Association as a disciplinary measure for violation of this Declaration or the Rules) become a lien against the Owner's Condominium that is enforceable by nonjudicial foreclosure proceedings under a power of sale. The foregoing restriction on enforcement is not applicable to late payment penalties or interest for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees, for delinquent assessments.

6.6 Assessment Increase Restrictions . The Association shall provide notice by personal delivery or by first-class mail to the Owners of any increase in the regular or special assessments not less than 30 days nor more than 60 days prior to the due date of the increased assessment.

The Board may not (i) impose an annual regular assessment for any fiscal year more than 20% above the annual regular assessment for the Association's preceding fiscal year or (ii) impose special assessments which in the aggregate exceed 5% of the budgeted gross expenses of the Association for that fiscal year without the approval of a majority of the votes of Owners at a meeting of the Members of the Association at which a quorum is present. For purposes of this **Section 6.6**, a "quorum" means more than 50% of the Owners, and the meeting must be conducted in accordance with Corporations Code sections 7510 through 7527 and 7613. The foregoing restrictions on assessment increases do not apply to increases necessary for emergency situations. An emergency situation is any one of the following:

- (i) an extraordinary expense required by an order of court;
- (ii) an extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain where a threat to personal safety on the Property is discovered; or
- (iii) an extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under Civil Code section 1365, provided that before the imposition or collection of any assessment under this subparagraph the Board must pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process and shall distribute the resolution to the Members with the notice of the assessment.

If the Board fails to distribute the Pro Forma Operating Budget as required by **Section 5.10.1** for any fiscal year, the Association may not increase its annual regular assessment for that fiscal year, as authorized by Civil Code section 1366(b), unless the Board has obtained the approval of a majority of the votes of the Owners at a meeting of the Members at which a quorum was present. For the foregoing purposes, a quorum means more than 50% of the Owners of the Association; and the meeting must be conducted in accordance with Corporations Code sections 7510 through 7527 and 7613 or any successor statute thereto.

6.7 Commencement of Regular Assessments . Annual regular assessments shall commence for all Condominiums on the first day of the month coinciding with or immediately following the date of the first transfer of title of a Condominium by the Declarant to a purchaser under the authority of a final subdivision public report issued by the California Department of Real Estate. No Condominium shall

be subject to any special assessments until regular assessments have commenced against that Condominium.

6.8 Due Dates of Assessments . Unless otherwise directed by the Board or unless accelerated as described herein, the annual regular assessment shall be collected in 12 equal monthly installments; and each installment shall be due and payable on the first day of each month. If any monthly installment is delinquent, the Board, at its election, may accelerate the remaining installment payments so that the entire remaining balance of the annual regular assessment is immediately due and payable. Special assessments shall be due on such date or dates as selected by the Board. Reimbursement assessments shall be due and payable ten days after the Owner receives the notice of the reimbursement assessment. The notice shall be deemed received on the date described in **Section 13.13**.

Any annual regular assessment installment (including any accelerated installments), special assessment or reimbursement assessment not paid within 15 days after the due date shall be delinquent, shall bear interest at the rate of 12% per annum from 30 days after the due date until paid, and shall incur a late penalty in an amount to be set by the Board from time to time, not to exceed the maximum amount permitted by law.

6.9 Allocation of Regular and Special Assessments . Regular and special assessments levied by the Board shall be allocated among the Condominiums as described in the budget components described in **Sections 6.9.1, 6.9.2 and 6.9.3**. The allocations are based on the Proforma Operating Budget (RE623) submitted to and accepted by the California Department of Real Estate as a part of the application for a final subdivision report (referred to in this **Section 6.9** as the "Proforma Operating Budget"). Certain budget items are prorated among the Condominiums based on the estimated square footage amounts of the Units as set forth in **Exhibit B**. Square footage amounts were obtained from plans and not actual measurements of the Units. The actual square footage amounts may vary. If there is any discrepancy between the square footage amounts set forth in **Exhibit B** and the actual square footage amounts or the square footage amounts set forth on the Condominium Plan or in any other document, the square footage amounts in **Exhibit B** shall control in order to retain a stable and constant proration schedule. If any line item described in the Proforma Operating Budget is replaced with an equivalent line item it shall be allocated in the same manner as the replaced line item. If any new line items are added, the line item shall be allocated as the Board determines, in its sole discretion, is a fair and equitable allocation.

6.9.1 Parking Garage Expenses. The costs allocated to the garage, including costs for administrative, general maintenance, custodial services, fire and life safety systems, utilities, and reserves as described in the Proforma Operating Budget shall be allocated exclusively to the Condominiums with Exclusive Use Common Area parking spaces as described in **Section 2.13** and any licensee under **Section 2.6**. These costs shall be allocated equally among the 238 parking spaces and paid by the Owner of the Exclusive Use Common Area parking space(s) or the licensee of the Licensed Parking Space.

6.9.2 General Common Expenses. The general common expenses identified in the Proforma Operating Budget shall be allocated equally among all the Condominiums, provided that the general common expense line items set forth in **Exhibit C** to this Declaration shall be prorated among all the Condominiums based on the Unit estimated square footage amounts set forth in **Exhibit B**.

6.9.3 Residential Common Expenses. The residential common expenses identified in the Proforma Operating Budget shall be allocated equally among the Residential Condominiums, provided that the residential common expense line items set forth in **Exhibit D** to this Declaration shall be prorated among the Residential Condominiums based on the applicable Residential Unit estimated square footage amounts set forth in **Exhibit B**.

If any costs described in **Sections 6.9.1, 6.9.2 or 6.9.3** are combined with another cost allocation category, such as insurance, the Board shall make a fair and equitable allocation of the costs so that the costs are appropriately allocated between or among the categories. In making the allocation, the Board may rely on qualified consultants.

Notwithstanding anything herein in **Sections 6.9.1, 6.9.2 or 6.9.3** to the contrary, if any Condominium is used in such a manner that increases the Association's maintenance, reserve, insurance or administrative costs and the increase can be attributed reasonably to the use of a particular Condominium, the Board may specially allocate the amount of the increase to that Condominium. Prior to implement such a special allocation, the Board shall provide notice to the Condominium Owner, which shall include a reasonable description of the reasons for the special allocation and shall offer the Owner the opportunity to address the Board regarding the Owner's position on the special assessment.

Notwithstanding anything herein to the contrary, if the use of any Condominium, the equipment or facilities maintained in any Condominium or any related reason results in an increase in the Association costs, including, but not limited to, increases in maintenance and repair costs, trash removal costs, commonly-metered utility costs or insurance costs, the Board may allocate the amount of the increase to the Condominium or Condominiums responsible for the increase.

6.10 Enforcement of Delinquent Assessments . The Association may elect to pursue one or more of the following remedies in the event of a delinquent assessment:

6.10.1 Personal Obligation. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the assessment and in such action shall be entitled to recover the delinquent assessment or assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in **Section 6.10.2**.

6.10.2 Assessment Lien. Except as otherwise provided in **Section 6.5** and subject to the provisions of **Section 6.10.3**, the Association may impose a lien against the Owner's Condominium for the amount of the delinquent assessment or assessments, plus any costs of collection (including attorneys' fees), late charges and interest by taking the following steps:

(a) At least 30 days prior to recording a lien upon the Owner's Condominium to collect a delinquent assessment, the Association shall notify the Owner in writing by certified mail of the following (the "Delinquency Notice"):

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

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

(3) 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.

(4) The right to request a meeting with the Board as provided by **Section 6.10.2(b)(3)**.

(5) The right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850.

(6) The right to request alternative dispute resolution with a neutral third party pursuant to Civil Code sections 1369.510 through 1369.590 before the Association may initiate

foreclosure against the Owner's Condominium, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(b) Any payments made by the Condominium Owner toward the delinquent assessment shall first be applied to the assessments owed; and only after the assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the Person who received it. The Association shall provide a mailing address for overnight payment of assessments.

(1) Prior to recording a lien for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850.

Prior to initiating a foreclosure for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, shall participate in dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850 or alternative dispute resolution with a neutral third party pursuant to Civil Code sections 1369.510 through 1369.580. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(2) The decision to record a lien for delinquent assessments shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board members in an open meeting. The Board shall record the vote in the minutes of that meeting.

(3) An Owner may submit a written request to meet with the Board to discuss a payment plan for the delinquent assessment. 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 45 days of the postmark of the request if the request is mailed within 15 days of the date of the postmark of the Delinquency Notice unless there is no regularly-scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans shall not impede an Association's ability to record a lien on the Owner's Condominium to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

(c) The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with **Section 6.8**, shall be a lien on the Owner's Condominium from and after the time the Association causes to be recorded with the county recorder of the county in which the Condominium is located a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with Civil Code section 1366, a legal description of the Owner's interest in the Development against which the assessment and other sums are levied, and the name of the record owner of the Owner's interest in the Development against which the lien is imposed. The itemized statement of the charges owed by the Owner described in **Section 6.10.2(a)(2)** shall be recorded together with a notice of delinquent assessment. In order for the lien to be enforced by nonjudicial foreclosure as provided in **Section 6.10.2(e)**, the notice of delinquent assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice of delinquent assessment shall be signed by any officer of the Association or by the Person designated by the Association for that purpose. A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an Owner in the Association's records, and the notice shall be mailed no later than ten calendar days after recordation. Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the Association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment

is recorded a lien release or notice of rescission and provide the Condominium Owner a copy of the lien release or notice that the delinquent assessment has been satisfied.

A monetary charge imposed by the Association: (i) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Area Improvements or landscaping for which the Member or the Member's guests or tenants were responsible; or (ii) as a disciplinary measure for failure of a Member to comply with the Governing Documents, except for the late payments, may not be characterized nor treated as an assessment that may become a lien against the Member's Condominium enforceable by the sale of the interest under Civil Code sections 2924, 2924b and 2924c.

(d) A lien created pursuant to **Section 6.10.2(c)** shall be prior to all other liens recorded subsequent to the notice of assessment, except as described in **Article 10**.

(e) Subject to the limitations of this **Section 6.10**, after the expiration of 30 days following the recording of a lien created pursuant to **Section 6.10.2(c)**, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Civil Code section 2934a. Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trusts. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924c and 2924d plus the cost of service for either of the following: (i) the notice of default pursuant to Civil Code section 1367.1(j); or (ii) the decision of the Board to foreclose upon the separate interest of an Owner as described in Civil Code section 1367.4(c)(3).

(f) If it is determined that a lien previously recorded against a Condominium was recorded in error, the party who recorded the lien, within 21 calendar days, shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the Condominium Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

(g) In addition to the requirements of Civil Code section 2924, a notice of default shall be served by the Association on the Owner's legal representative in accordance with the manner of service of summons in Code of Civil Procedure sections 415.10 through 415.95. The Owner's legal representative shall be the person whose name is shown as the Owner of the Condominium in the Association's records, unless another person has been previously designated by the Owner as his or her legal representative in writing and mailed to the Association in a manner that indicates that the Association has received it.

(h) Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any notices required by this section to the secondary address provided. The Association shall notify Owners of their right to submit secondary addresses to the Association, at the time the Association issues the Pro Forma Operating Budget pursuant to Civil Code section 1365. The Owner's request shall be in writing and shall be mailed to the Association in a manner that shall indicate the Association has received it. The Owner may identify or change a secondary address at any time, provided that, If a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request.

(i) This **Section 6.10.2** is subordinate to and shall be interpreted in conformity with **Section 6.10.3**.

(j) If the Association fails to comply with the procedures set forth in this **Section 6.10.2**, prior to recording a lien, the Association shall recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Condominium Owner.

6.10.3 Assessment Enforcement Restrictions.

(a) If the Association seeks to collect delinquent regular or special assessments of an amount less than one thousand eight hundred dollars (\$1,800), not including any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, the Association may not collect that debt through judicial or nonjudicial foreclosure, but may attempt to collect or secure that debt in any of the following ways:

(1) By a civil action in small claims court, pursuant to Code of Civil Procedure sections 116.110 through 116.950. If the Association chooses to proceed by an action in small claims court, and prevails, the Association may enforce the judgment as permitted under Code of Civil Procedure sections 116.810 through 116.880. The amount that may be recovered in small claims court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:

(A) The amount owed as of the date of filing the complaint in the small claims court proceeding.

(B) In the discretion of the court, an additional amount to that described in **Section 6.10.3(a)(1)** equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid assessments and any reasonable late charges, fees and costs of collection, attorneys' fees, and interest, up to the jurisdictional limits of the small claims court.

(2) By recording a lien on the Owner's Condominium upon which the Association may not foreclose until the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, equals or exceeds one thousand eight hundred dollars (\$1,800) or the assessments secured by the lien are more than 12 months delinquent. If the Association chooses to record a lien under these provisions, prior to recording the lien, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution as set forth in Civil Code sections 1363.810 through 1363.850.

(3) Any other manner provided by law, except for judicial or nonjudicial foreclosure.

(b) If the Association seeks to collect delinquent regular or special assessments of an amount of one thousand eight hundred dollars (\$1,800) or more, not including any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, or any assessments secured by the lien that are more than 12 months delinquent, the Association may use judicial or nonjudicial foreclosure subject to the following conditions:

(1) Prior to initiating a foreclosure on an Owner's Condominium, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850 or alternative dispute resolution as set forth in Civil Code sections 1369.510 through 1369.580. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

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

(3) The Board shall provide notice by personal service in accordance with the manner of service of summons in Code of Civil Procedure sections 415.10 through 415.95 to an Owner of a Condominium who occupies the Condominium or to the Owner's legal representative, if the Board votes to foreclose upon the Condominium. The Board shall provide written notice to an Owner who does not occupy the Condominium by first-class mail, postage prepaid, at the most current address shown on the books of the Association. In the absence of written notification by the Owner to the Association, the address of the Owner's Condominium may be treated as the Owner's mailing address.

(4) A nonjudicial foreclosure by the Association to collect upon a debt for delinquent assessments shall be subject to a right of redemption. The redemption period within which the Condominium may be redeemed from a foreclosure sale under this paragraph ends 90 days after the sale. In addition to the requirements of Civil Code section 2924f, a notice of sale in connection with an Association's foreclosure of a Condominium shall include a statement that the Property is being sold subject to the right of redemption created by Civil Code section 1367.4(c)(4).

6.10.4 Erroneous Liens. If it is determined, through dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850 or alternative dispute resolution with a neutral third party pursuant to Civil Code sections 1369.510 through 1369.590, that the Association has recorded a lien for a delinquent assessment in error, the Association shall promptly reverse all late charges, fees, interest, attorneys' fees, costs of collection, costs imposed for the notice prescribed in Civil Code sections 1367.1(a) and 1367.1(b) and pay all costs related to the dispute resolution or alternative dispute resolution.

The provisions of this Section 6.10 are intended to comply with the requirements of Civil Code sections 1367.1, 1367.4 and 1367.5 in effect as of January 1, 2007. If these sections are amended or rescinded in any manner, the provisions of this Section 6.10 automatically shall be amended or rescinded in the same manner. Civil Code sections 1367.1, 1367.4 and 1367.5 may have been amended by the State Legislature, and the Board should confirm the current statutory requirements.

6.11 Assessment Exemption . Any Condominium having no structural Improvement for human occupancy shall be exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the structural Improvement. Exemption may include, but is not limited to:

- (i) roof replacement;
- (ii) exterior maintenance;
- (iii) walkway lighting;
- (iv) refuse disposal;
- (v) cable television; and
- (vi) domestic water supply to Units.

The foregoing exemptions shall be in effect until the earliest of the following events:

- (i) a notice of completion of the structural Improvements has been recorded;
- (ii) occupation or use of the Condominium; or
- (iii) completion of all elements of the residential structures that the Association is obligated to maintain.

The Declarant and any other Owner of a Condominium are exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility that is not complete at the time assessments commence. This exemption from the payment of assessments shall be in effect until the earliest of the following events:

- (i) a notice of completion of the common facility has been recorded; or
- (ii) the common facility has been placed into use.

6.12 Estoppel Certificate . Within ten days of 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 occupant of the Owner's Condominium is in violation of any of the provisions of this Declaration, the Articles, Bylaws or Rules; (ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year in which the request is received; and (iii) the amount of any assessments levied against the Owner's Condominium that are unpaid as of the date of the statement, including any late charges, interest or costs of collection, and that, as of the date of the statement, are or may be made a lien against the Owner's Condominium as provided by this Declaration. The Association may charge a fee to provide this information provided the fee shall not exceed the Association's reasonable cost to prepare and reproduce the requested items.

6.13 Restrictions on Association Funds. Pursuant to the requirements of Civil Code section 1363.04, no Member funds shall be used for campaign purposes in connection with any election of members to the Board or for company purposes in connection with any other Association election, except to the extent necessary to comply with duties of the Association imposed by law.

ARTICLE 7 - Architectural Review

7.1 Architectural Committee . An Architectural Committee may be established by the Declarant or by the Board. The Committee shall consist of three members. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the original final subdivision public report for the Development. Declarant's appointees need not be Members of the Association. Declarant shall have the right to appoint a majority of the members of the Committee until 90% of all the Condominiums in the Development have been sold or until the fifth anniversary of the issuance of the final public report for the Development, whichever occurs first. On the first anniversary date of the issuance of the original public report for the Development, the Board shall have the power to appoint one member to the Committee until 90% of the Condominiums of the Development have been sold or until the fifth anniversary date of the issuance of the final public report for the Development, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Committee. The Board appointees shall be Members of the Association and shall serve at the will of the Board. The term of the members shall be as designated by the Declarant or by the Board. If a member is removed from the Committee for any reason, the Person appointing the member immediately shall appoint a replacement for the balance of the removed member's term. Until a replacement is named, the remaining members of the Committee shall have full authority to act on behalf of the Committee. No member of the Committee shall be entitled to any compensation for serving as a member, provided that member shall be entitled to be reimbursed by the Committee for any expenses incurred by the member in performing its duties, provided the member received prior authorization for the incurrence of the expense. All actions of the Committee shall be governed by a majority vote of the members. The Committee shall meet at such times and places as it shall designate. Meetings of the Committee shall be open to all Members of the Association. The Committee may adopt guidelines regarding the type, location, quality, size, height and other matters relating to any Improvements or landscaping to be constructed or installed in the Condominiums and may establish a procedure for reviewing all plans and specifications submitted to it for prior approval and shall be responsible for periodic review and modification of the guidelines. The guidelines shall comply with the use restrictions

described in **Article 3**. Factors that shall be considered in approving proposed plans and specifications shall include without limitation: (i) conformity and harmony of external design with other Condominiums in the Development; (ii) effect of the proposed location on neighboring Condominiums; (iii) relation of the topography, grade and finished ground elevation to that of adjoining Condominiums; (iv) proper facing of elevations with respect to nearby streets and adjoining Condominiums; (v) overall conformity with the general purpose of the Development and the restrictions in this Declaration; and (vi) the guidelines.

7.2 Approval . None of the following actions shall take place anywhere within the Development without the prior written approval of the Committee:

(i) any construction, installation, addition, repair (including exterior painting), replacement, alteration or removal of any Unit Improvement that is part of a building structure (including flooring, interior and exterior walls) or any portion of any Unit Improvement that can be seen from the Common Area or any other Unit;

(ii) any planting or landscaping (including the removal of any tree); or

(iii) any replacement or modification to any floor coverings or wall or ceiling materials or any penetration or other disturbance of any wall, floor, or ceiling if the replacement, modification, penetration or disturbance could result in any increase in the sound transmissions, resonances or reverberations from the Unit to any other Unit.

Approval shall require the applicant to submit to the Committee plans and specifications in a manner and form satisfactory to the Committee. All plans and specifications shall conform with any guidelines established by the Committee. Plans shall adequately describe the proposed Improvements; plot layout; all exterior elevations; materials and colors; utility locations; construction schedule; and such other information as the Committee shall require. The Committee, in its sole discretion, may grant variances or exceptions from any guidelines it has established for approving plans and specifications, which variances or exceptions may contain such conditions and time limitations as the Committee deems appropriate.

Notwithstanding anything herein to the contrary, any Owner may repaint the interior of the Owner's Unit in any color the Owner desires or remodel the Unit with prior written approval of the Committee which approval shall be granted if the Committee finds the remodeling does not in any manner remove or adversely affect any bearing wall or fire rated wall, affect the structural integrity of the Common Area, alter the exterior appearance of any Condominium building, or increase the sound transmissions, resonances or reverberations from the Unit to any other Condominium. It shall be the Owner's responsibility to comply with all building code requirements and permitting requirements in connection with any modification to the Owner's Unit.

The Committee may establish reasonable fees to reimburse the Committee for any out-of-pocket costs incurred by the Committee in reviewing plans and specifications. Except as paid or reimbursed by the applicant, any costs incurred by the Committee in the performance of its duties shall be paid by the Association. If the Committee fails to approve or disapprove any plans or specifications within 60 days of receipt of either the plans and specifications or any advance payments required by the Committee, whichever shall occur later, the plans and specifications shall be deemed approved unless a written extension is executed by the Person submitting the plans and by the Committee. The burden shall be on the applicant to establish that the Committee did receive the plans and specifications and/or advance payments and to establish the date of receipt.

The Committee shall be entitled to determine that the proposed work is unacceptable even if the same or similar work previously had been approved for another Condominium as long as the Committee finds that reasonable factors exist to distinguish this application from the approved work. The Committee shall be entitled to make subjective judgments and to consider the aesthetics of a proposal when the proposed work will result in Improvements and/or landscaping that can be seen from any other Condominium, Common Area or public right-of-way as long as the Committee acts in good faith and not unreasonably, arbitrarily or capriciously.

The Committee may impose terms and conditions on any approval, including: (i) contractor licensing and insurance requirements (including workers compensation and liability insurance); (ii) completion and labor and material bonds or other acceptable collateral; and (iii) construction regulations such as authorized hours of construction, access restrictions, noise restrictions and clean-up requirements.

Any member of the Committee or any authorized agent of the Committee from time to time and anytime during normal business hours may enter any Condominium for the purpose of inspecting any construction to confirm compliance with the plans and specifications as approved by the Committee.

In reviewing and approving plans, the Committee shall comply with the requirements of Civil Code section 1378, the restrictions contained in **Article 3** and with all federal, State and local laws regulating the rights of handicapped persons. If there is any conflict between this **Article 7** and Civil Code section 1378, Civil Code section 1378 shall control to the extent of the conflict.

7.3 Architectural Committee's Decision . The decision on any proposed work shall be in writing. If a proposed change is disapproved by the Committee, the written decision shall include both an explanation of why the proposed change is disapproved and a description of the procedure for reconsideration of the decision by the Board. If disapproved, the applicant is entitled to reconsideration by the Board at an open meeting of the Board unless the disapproval decision was made by the Board instead of the Committee or unless the Architectural Committee has the same members as the Board. Reconsideration by the Board does not constitute a dispute resolution procedure described in **Section 5.6.7**.

7.4 Completion of Work . On receipt of approval, the Owner shall commence the work as soon as reasonably practicable and shall diligently pursue the completion of the work. If the work is not commenced within 90 days after receipt of approval or completed within 180 days or such later date as the Committee shall approve in writing, the approval automatically shall be deemed revoked and no further work shall be done without again obtaining the written approval of the Committee as described herein. The work shall be done in strict compliance with the approved plans except for minor non-material changes as may be necessary during the course of construction.

7.5 Non-liability . The Association, the Committee, the Declarant, or the other Condominium Owners, or their respective successors or assigns, shall not be liable to any Person submitting plans to the Committee for approval or to any other Condominium Owners or occupants by reason of any act or omission arising out of or in connection with the approval or disapproval of any plans or specifications. Approval shall not constitute any warranty or representation by the Committee or its members that the plans satisfy any applicable governmental law, ordinance or regulation or that any Improvement constructed in accordance with the plans shall be fit for the use for which it was intended and safe for use and occupancy. Applicants shall make their own independent verifications of the foregoing and shall not rely on the Committee or its members in any manner in this regard.

7.6 Enforcement . If any Owner or occupant violates the provisions of this **Article 7**, the Declarant or the Association, in addition to levying monetary fines or penalties and in addition to any other remedy available at law or equity, may bring an action to compel compliance, including an action for a court order mandating the removal of any Improvement or other property constructed or installed in violation of the provisions of this **Article 7**. In such action, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

7.7 Board's Authority . If for any reason the Committee is not established or not active, the Board shall perform the duties and shall have the rights of the Committee as described in this **Article 7**. Notwithstanding anything herein to the contrary, modifications, changes or additions to any Common Area Improvements authorized by the Board shall not require approval from the Committee.

7.8 Governmental Approval . Before commencement of any alteration or Improvement approved by the Committee, the Owner shall comply with all the appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required from any governmental entity with appropriate jurisdiction.

7.9 Declarant Exemption . Declarant, or its successor or assign, shall not be subject to the approval requirements of this **Article 7** in connection with the construction or alteration of any Improvement within the Development or the installation of any landscaping, provided that this exemption shall expire on the third anniversary date of the recordation of this Declaration. In addition Declarant, or its successor or assign shall not be subject to the approval requirements of this **Article 7** in connection with any repairs or modifications made to any Improvements as may be required by law or pursuant to an agreement with any Unit Owner or the Association.

ARTICLE 8 - Insurance

8.1 Liability and Fidelity Insurance . The Association shall obtain and maintain the following liability policies:

8.1.1 Commercial General Liability Policy: A commercial general liability insurance policy insuring the Association, any manager, the Association's directors and officers, and the Owners against any liability incident to any bodily injury or property damage from any accident or occurrence within the Common Area. The policy shall also cover any liability incident to any bodily injury or property damage from any accident or occurrence within any Condominium related to any maintenance or repair work required to be performed on any Condominium by the Association pursuant to this Declaration, including, but not limited to, work performed in any Common Area. The policy shall include, if obtainable, a cross liability or severability of interest endorsement insuring each insured against the liability to each other. The limits of such insurance (including the commercial general liability and any umbrella liability coverage) shall not be less than \$3,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and other liability or risk customarily covered with respect to projects similar in construction, location and use and shall require at least 30 days' written notice to the Association before the policy can be cancelled or substantially modified unless the policy is being replaced with a policy of equivalent coverage. The policy shall be primary and noncontributing with any other liability policy covering the same liability.

8.1.2 Directors and Officers Liability Policy: A directors and officers liability policy containing such terms and conditions as are normally and customarily carried for directors and officers of a residential condominium association.

8.1.3. Fidelity Policy. A blanket fidelity insurance policy covering any Person who either handles or administers (or is responsible for) Association funds, whether or not that Person receives compensation for services. The Association shall be the insured under the policy and the policy shall provide that ten days' written notice be provided to the Association before the policy can be canceled or substantially modified for any reason. The policy amounts shall satisfy the Federal National Mortgage Association ("FNMA") requirements and in no event shall be less than the sum of three months of assessments on all Condominiums subject to assessments.

8.2 Association Property Insurance . The Association shall obtain and maintain a master property insurance policy that satisfies each of the following conditions:

8.2.1 Property Covered. The policy shall cover the following real and personal property:

(a) Common Area. All Common Area Improvements, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building; windows; fences; monuments; lighting fixtures; exterior signs; and personal property owned or maintained by the Association; but excluding land; foundations; excavations; and other items typically excluded from property insurance coverage;

(b) *Residential Units.* The fixtures originally installed by the Declarant, including upgrades and any equivalent replacements thereto, including, but not limited to, interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, mirrors, carpets, and hardwood floors); utility fixtures (including gas, electrical and plumbing); cabinets; built-in appliances; heating and air-conditioning systems; water heaters installed as a part of the original construction of the residence and any equivalent replacements; but excluding any personal property located in the residential structure; and excluding any renovations or upgrades to any of the foregoing made after completion of the original construction of the residence to the extent the replacement cost of any such renovation, upgrade or addition exceeds the replacement cost of the original Improvements as determined on the date that immediately precedes the date of the damage or destruction of the Improvement or upgrade; and

(c) *Commercial Units.* The load bearing structural components of the Units, the walls located between the adjoining Units or between a Unit and the Common Area and the sheet rock on these walls.

8.2.2 Covered Cause of Loss. The policy shall provide coverage against losses caused by fire and all other hazards normally covered by a "special form" policy or its equivalent.

8.2.3 Dollar Limit. The dollar limit of the policy shall not be less than the full replacement value of the covered property described in **Section 8.2.1** above, provided that there may be lower dollar limits for specified items as is customarily provided in property insurance policies.

8.2.4 Primary. The policy shall be primary and noncontributing with any other insurance policy covering the same loss.

8.2.5 Endorsements. The policy shall contain such endorsements as may be required under **Section 8.6** and as the Board in its discretion shall elect after consultation with a qualified insurance consultant.

8.2.6 Waiver of Subrogation. The policy shall waive all subrogation rights against any Owner or occupant and their family members and invitees except to the extent of any deductible.

8.2.7 Deductible. The amount of any deductible shall be paid by the Association and/or Owner as provided herein or pursuant to guidelines adopted by the Board. When a claim is made on the Association's property insurance policy, an Owner is responsible for payment of damage up to the amount of the deductible in circumstances: (i) where damage is caused by the fault of the Owner or that Owner's tenant or their family members, invitees or agents; and/or (ii) where damage is caused by the failure of some portion of the Unit which the Owner is responsible for maintaining. In cases where damage affects more than one Condominium or a Condominium and the Common Area and **Section 8.2.7 (i) or (ii)** does not apply, each Owner is responsible for the cost to repair the Owner's Unit up to the deductible and the Common Area immediately abutting the Unit or exclusively serving the Unit and the Association is responsible for the cost to repair any other Common Area Improvements up to the deductible. If the cumulative cost of repairs exceeds the deductible, the burden of the deductible shall be prorated between or among the claimants based on the proportion that the costs of repairs to the Unit or Common Area bears to the total cost of repairs. The Association may levy a reimbursement assessment against an Owner's Condominium as authorized under **Section 6.5** for the Owner's share of the deductible.

8.3 Insurance Rating and Cancellation . The insurance company providing the Association's insurance under **Sections 8.1** and **8.2** shall have a A.M. Best rating of not less than A:VII if licensed to do business in the State of California and a rating of not less than A+:X if not licensed to do business in the State of California. If the A.M. Best ratings are no longer available, the insurance ratings shall be based on equivalent ratings issued by an independent insurer company rating entity used by financial institutions for insurance rating purposes. All of the policies of insurance maintained by the Association shall contain a provision that such policy or policies shall not be cancelled or terminated, or expired by their terms, or not renewed without 30 days' prior written notice to the Board, the Owners and their respective first Mortgagees (provided that such Owners or Mortgagees have filed written requests with the carrier for such notice) and every other Person in interest who shall have requested such notice of the insurer.

8.4 Board's Authority to Revise Insurance Coverage . Subject to the provisions of **Section 8.6**, the Board shall have the power and right to deviate from the insurance requirements contained in this **Article 8** in any manner that the Board, in its discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this **Article 8**, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least 30 days prior to the effective date of the reduction.

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Each Owner, by acceptance of a deed to a Condominium, irrevocably appoints the Association or the Insurance Trustee, described in **Section 8.7**, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

8.5 Periodic Insurance Review . The Board periodically (and not less than once every three years) shall review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Board considers to be in the best interests of the Association. If applicable, the review shall include an appraisal by a qualified appraiser of the current replacement costs of all covered property under the Association's property insurance policy unless the Board is satisfied that the current dollar limit of the property insurance policy, coupled with the amount of actual reserves on hand, is equal to or greater than the current replacement costs.

8.6 FNMA and FHLMC Requirements . Notwithstanding anything herein to the contrary, the Association shall maintain such policies, containing such terms, amount of coverage, endorsements, deductible amounts, named insureds, loss payees, standard mortgage clauses, notice of changes or cancellation, and an appropriate insurance company rating that shall satisfy the minimum requirements imposed by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor thereto. If the FNMA or FHLMC requirements conflict, the more stringent requirements shall be met.

8.7 Insurance Trustee . All property insurance proceeds payable to the Association under any property insurance policy procured by the Association as described in **Section 8.2**, subject to the rights of Mortgagees under **Article 10**, may be paid to a trustee as designated by the Board to be held and expended for the benefit of the Owners and Mortgagees as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the county in which the Development is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Association will have the duty to contract for such work as provided for in this Declaration.

8.8 Owners' Property Insurance . Each Condominium Owner shall maintain property insurance against losses to personal property located within the Owner's Unit. **The Association's insurance policies will not provide coverage for losses to the Owner's personal property or for any upgrades or additions to any fixtures or Improvements located within the Unit to the extent not covered under Section 8.2.1(b) or (c)**. In addition, each Condominium Owner is advised to maintain a general liability insurance policy in an amount not less than \$100,000 covering any liability for injury to any Person or damage to any Improvements or personal property within the Development caused by any act or omission of Owner or tenant of the Owner's Condominium, or their family members, employees, agents or invitees. Each Owner also is advised to carry unit owner building insurance for the Improvements within the Unit to the extent not covered under **Sections 8.2.1(b) or (c)** and loss assessment coverage in such amounts as may be recommended by a qualified consultant. Nothing herein imposes any duty on the Association, its directors, officers or agents (including the manager) to confirm or otherwise verify that the Owners are carrying the recommended insurance.

No Owner shall separately insure any property covered by the Association's property insurance policy as described in **Section 8.2** above. If any owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association to the extent of the diminution. The Association may levy a reimbursement assessment against the Owner's Condominium to collect the amount of the diminution.

Each Owner is strongly advised to seek the advice of a qualified insurance consultant regarding the Owner's property and liability insurance obligations and recommendations under this Section 8.8 and regarding loss assessment and unit owners building insurance coverage.

8.9 Other Insurance . In addition to the policies described in **Sections 8.1 and 8.2**, the Association may obtain and maintain the following insurance:

- (i) Workers Compensation Insurance to the extent required by law; and
- (ii) such other insurance as the Board in its discretion considers necessary or advisable.

ARTICLE 9 - Damage, Destruction or Condemnation

9.1 Restoration Defined . As used in this **Article 9**, the term "restore" shall mean repairing, rebuilding or reconstructing damaged Improvements to substantially the same condition and appearance in which they existed prior to fire or other casualty damage.

9.2 Insured Casualty . If any Improvement is damaged or destroyed from a risk covered by the insurance required to be maintained by the Association and the insurance proceeds are sufficient to cover the loss, then the Association, to the extent permitted under existing laws and except as otherwise authorized under this **Article 9**, shall restore the Improvement to the same condition as it was in immediately prior to the damage or destruction subject to such changes as may be approved by the Architectural Committee or required by law. The Association shall proceed with the filing and adjustment of all claims arising under the existing insurance policies. The insurance proceeds shall be paid to and held by the Association or an insurance trustee selected under the provisions of **Section 8.7**. If the insurance proceeds exceed the costs of restoration, the excess proceeds shall be paid into reserves and held for the benefit of the Association.

9.3 Inadequate Insurance Proceeds or Uninsured Loss . If the insurance proceeds are insufficient to restore the damaged Improvement or the loss is uninsured, the Board shall add to any available insurance proceeds all reserve account funds designated for the repair or replacement of the damaged Improvement. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. If the aggregate amount of insurance proceeds and such reserve account funds are insufficient to pay the total costs of restoration, a special assessment shall be levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in this Declaration and by law. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. Any special assessment levied to cover a shortfall in available repair proceeds shall be allocated among the Condominiums without regard to the extent of damage or destruction to the individual Condominiums.

If the total funds available to the Association are still insufficient to restore the damaged Improvement, then the Board first shall attempt to impose an additional special assessment pursuant to **Section 9.4** below and, second, use a plan of alternative reconstruction pursuant to **Section 9.5** below. Any special assessment levied to cover a shortfall in available repair proceeds shall be allocated among the Condominiums without regard to the extent of damage or destruction to the individual Condominiums. If the Members do not approve such actions, then the provisions of **Section 9.6** shall apply.

9.4 Additional Special Assessment . If the total funds available to restore the damaged Improvement as provided in **Section 9.3** are insufficient, then a meeting of the Members shall be called for the purpose of approving a special assessment to make up all or a part of the deficiency ("Additional Special Assessment"). The Additional Special Assessment shall be allocated among all the Condominiums in accordance with the proration schedule set forth in the DRE Budget described in **Section 6.9** and without regard to the extent of the damage or destruction to the individual Condominiums. If the amount of the Additional Special Assessment approved by the Members and the amounts available pursuant to **Section 9.3** above are insufficient to restore the damaged Improvement or if no Additional Special Assessment is approved, the Association shall consider a plan of alternative reconstruction in accordance with **Section 9.5**.

9.5 Alternative Reconstruction . The Board shall consider and propose plans to reconstruct the damaged Improvement making use of whatever funds are available to it pursuant to **Section 9.3** and **Section 9.4** above ("Alternative Reconstruction"). All proposals shall be presented to the Owners. If two-thirds of the voting power of the Owners whose Condominiums were materially damaged as determined by the Association ("Affected Owners") and a majority of the voting power of the Members, including the Affected Owners, agree to any plan of Alternative Reconstruction, then the Board shall contract for the reconstruction of the damaged Improvement in accordance with the plan of Alternative Reconstruction making use of whatever funds are then available to it. If no plan of Alternative Reconstruction is agreed to, then the provisions of **Section 9.6** shall apply.

9.6 Sale of All Condominiums . If the damaged Improvement renders one or more of the Condominiums uninhabitable and the Improvements will not be restored in accordance with the provisions of **Sections 9.3, 9.4 and/or 9.5**, the Board, as the attorney-in-fact for each Owner, shall be empowered to sell all the Condominiums (including the land) in their then present condition on terms to be determined by the Board.

The proceeds from the sale, together with the insurance proceeds received and any reserve funds, after deducting therefrom the Association's sale expenses, including commissions, title and recording fees, legal costs, a contingency fund for dissolution of the Association and payment of its debts and contingent liabilities, and that portion of the proceeds allocated for the removal of the building, shall be distributed among the Owners and their respective Mortgagees in proportion to the respective fair market values of the Condominiums immediately prior to the date of the event causing the damage as determined by an independent appraisal made by a qualified real estate appraiser selected by the Board. Thereafter, the Board shall wind-up and dissolve the Association.

9.7 Restoration of Partition Rights . Notwithstanding anything herein to the contrary, if the damage has rendered any Condominium uninhabitable and (i) within one year of the date of the occurrence of the damage, the Association has not elected to repair the damage under the provisions of **Sections 9.2, 9.3, 9.4 or 9.5** or if so has not commenced and diligently pursued the repair work or (ii) the Association has not commenced and diligently pursued the sale of the Development as authorized under **Section 9.6**, the restriction against partition described in **Section 2.14** shall be null and void and any Owner may bring a partition action under the authority of Civil Code section 1359 or any successor statute thereto.

9.8 Rebuilding Contract . If there is a determination to restore, the Board or its authorized representative shall obtain bids from at least two licensed and reputable contractors and shall accept the repair and reconstruction work from whomever the Board determines to be in the best interests of the Members. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the repair and reconstruction funds shall be disbursed to the contractor according to the terms of the contract. The Board shall take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date. Such construction shall be commenced no later than 180 days after the event requiring reconstruction and shall thereafter be diligently prosecuted to completion. Such construction shall return the Development to substantially the same condition and appearance in which it existed prior to the damage or destruction.

9.9 Authority to Effect Changes . If any Condominium is damaged or destroyed or in need of renovation or rehabilitation and the Condominium is repaired or reconstructed, the Condominium may be repaired or reconstructed in a manner that alters the boundaries of the Units, Common Area, and/or Exclusive Use Common Area, provided the following conditions are satisfied:

(i) the alteration has been approved by the Board, by Members holding a majority of the total voting power of the Association, and by the holders of any first Mortgages to the extent required herein;

(ii) the Board has determined that the alteration is necessary in order to comply with current building code requirements, to meet current building construction standards and procedures, or to improve the conditions and quality of the building;

(iii) the alteration does not materially change the location of any Unit or materially increase or decrease the size of any Unit without the consent of the Unit Owner and the holders of any first Mortgages thereon. For purposes herein, a material change in the size of the Unit shall mean any alteration that increases or decreases the square footage of the interior floor space of the Unit by more than 10% from the square footage as determined from the Condominium Plan;

(iv) the Board has determined that any alteration that will relocate or reduce the Common Area will not unreasonably interfere with the rights of the Owners and occupants to use and enjoy the Common Area; and

(v) the Condominium Plan is amended to reflect the alteration to the Units or Common Area.

Each Owner irrevocably appoints the Association as that Owner's attorney-in-fact and irrevocably grants to the Association the full power in the name of the Owner to effect any alteration to any Unit or Common Area as authorized above, including, but not limited to, the execution, delivery and recordation of any Condominium Plan, amendments, deeds or other instruments.

9.10 Condemnation . If there is a total sale or taking of the Development, meaning a sale or taking (i) that renders more than 50% of the Condominiums uninhabitable (such determination to be made by the Board in the case of a sale and by the Court in the case of a taking) or (ii) that renders the Development as a whole uneconomical as determined by the vote or written consent of 75% of those Owners and their respective first Mortgagees whose Condominiums will remain habitable after the taking, the right of any Owner to partition through legal action as described in **Section 2.14** shall revive immediately. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Development, together with the proceeds of any sale pursuant to any partition action, after payment of all expenses relating to the sale, taking or partition action, shall be paid to all Owners and to their respective Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums.

In the case of a partial sale or taking of the Development, meaning a sale or taking that is not a total taking as described above, the proceeds from the sale or taking shall be paid or applied in the following order of priority; and any judgment of condemnation shall include the following provisions as part of its terms:

(i) to the payment of the expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then

(ii) to Owners and their respective Mortgagees as their interests may appear whose Condominiums have been sold or taken in an amount up to the fair market value of such Condominiums as determined by the Court in the condemnation proceeding or by an independent, qualified appraiser selected by the Board, less such Owner's share of expenses paid pursuant to the preceding subsection (i) (which share shall be allocated on the basis of the fair market value of the Condominium). After such

payment, the recipient shall no longer be considered an Owner, and the Board or individuals authorized by the Board acting as attorney-in-fact of all Owners shall amend the Condominium Plan, the subdivision map (if necessary), and this Declaration to eliminate from the Development the Condominium so sold or taken and to adjust the undivided ownership interests of the remaining Owners in the Common Area based on the ratio that each remaining Owner's undivided interest bears to all of the remaining Owners' undivided interest in the Common Area; then

(iii) to any remaining Owner and to his or her Mortgagees, as their interests may appear, whose Condominium has been diminished in fair market value as a result of the sale or taking disproportionately to any diminution in value of all remaining Condominiums but, as of a date immediately after any announcement of condemnation, in an amount up to the disproportionate portion of the total diminution in value; then

(iv) to all remaining Owners and to their respective Mortgagees, as their interests may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Condominium bears to the fair market value of all remaining Owners' Condominiums as determined by the Court in the condemnation proceeding or by an independent, qualified appraiser selected by the Board.

9.11 Dispute Resolutions. If there are any disputes regarding the rights and/or duties of the Owners or the Association under this **Article 9**, the dispute shall be submitted to mediation and, if necessary binding arbitration, to the Judicial Arbitration and Mediation Services (JAMS), or any successor thereto, for resolution. If the mediation is unsuccessful, the dispute shall be resolved by binding arbitration in accordance with JAMS' commercial rules. The mediation and arbitration shall be held in the county where the Development is located. The parties shall be entitled to the discovery rights provided by Code of Civil Procedure section 1283.05. The arbitrator may award costs and attorneys' fees to the prevailing party. The arbitrator's decision shall be binding on the parties and may be enforced in any court of competent jurisdiction.

ARTICLE 10 - Rights of Mortgagees

10.1 Lender Definitions . Unless the context indicates otherwise, the following terms as used in this **Article 10** shall have the definitions contained in this **Section 10.1**. An "institutional" Mortgagee is a first Mortgagee that is: (i) a federally or state chartered or licensed bank or savings and loan association; (ii) a mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property or investing in such loans; (iii) an insurance company; (iv) a federal or State agency or instrumentality including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; or (v) an insurer or governmental guarantor of a first Mortgage including the Federal Housing Authority and the Veterans Administration. A "first Mortgage" or "first Mortgagee" is one having a priority as to all other Mortgages encumbering the same Condominium or other portions of the Development. An "eligible Mortgage holder" shall mean a first Mortgagee who has requested the Association to notify the first Mortgagee of any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

10.2 Encumbrance . Any Owner may encumber his or her Condominium with a Mortgage or Mortgages.

10.3 Rights of Institutional Mortgagees . Any institutional Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the first Mortgage, including judicial foreclosure or nonjudicial foreclosure under a power of sale (but excluding voluntary conveyance to the first Mortgagee), shall take the Condominium free of any obligation to pay any assessments that were delinquent as of the date the institutional Mortgagee acquired title to the Condominium, including any interest, penalties or late charges in connection therewith. The institutional Mortgagee as Owner of the Condominium shall be obligated to pay any assessments that were not delinquent as of the date the institutional Mortgagee took title to the Condominium and all future assessments levied against the Condominium as long as the

institutional Mortgagee remains in title, including any special assessments levied by the Association to raise operating or reserve funds needed because of uncollected delinquent assessments, as long as the special assessment is allocated among all the Condominiums as provided in **Section 6.9**.

10.4 Subordination . Any assessment lien established under the provisions of this Declaration is expressly made subject to and subordinate to the rights of any Mortgage that encumbers all or any portion of the Development or any Condominium made in good faith and for value and recorded before the recordation of a notice of delinquent assessment. No assessment lien shall in any way defeat, invalidate or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates in writing its interest to such lien. If any Condominium is encumbered by a Mortgage made in good faith and for value, the foreclosure of any assessment lien cannot operate to effect or impair the lien of any Mortgage recorded prior to the recordation of the notice of delinquent assessment. Upon the foreclosure of any prior-recorded Mortgage, any lien for delinquent assessment shall be subordinate to the Mortgage lien; and the purchaser at the foreclosure sale shall take title free of the assessment lien. By taking title, the purchasers shall be obligated to pay only assessments or other charges that were not delinquent at the time the purchaser acquired title or that were levied by the Association on or after the date the purchaser acquired title to the Condominium. Any subsequently-levied assessments or other charges may include previously-unpaid assessments, provided all Owners, including the purchaser and its successors and assigns, are required to pay their proportionate share of such unpaid assessments.

10.5 Breaches . No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith or for value; but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee sale or otherwise.

10.6 Special Voting Requirements . Any action taken by the Association, the Members or the Board are subject to the special voting requirements set forth in this **Section 10.6**.

10.6.1 First Mortgagee Approval Rights: Except as provided by statute, in case of condemnation or substantial loss to the Units and/or Common Area of the Development, unless at least two-thirds of the first Mortgagees (based on one vote for each first Mortgage owned) and Owners (other than the Declarant) of the individual Condominiums have given their prior written approval, the Association may not:

(i) by act or omission seek to abandon or terminate the Condominium Development;

(ii) change the pro rata interest or obligations of any Condominium in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Condominium and the Common Area. In the case of a condominium development subject to additions or expansions, in which sections or phases are established by the Governing Documents, this requirement will be deemed waived to the extent necessary to allow the phasing or additions in accordance with the Governing Documents;

(iii) partition or subdivide any Condominium;

(iv) seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Condominium Development or as authorized under **Section 2.10** is not a transfer within the meaning of this clause. In the case of a condominium development subject to additions or expansions in which sections or phases are established by the Governing Documents, this requirement will be deemed waived to the extent necessary to allow the phasing or additions in accordance with the Governing Documents; or

(v) use hazard insurance proceeds for losses to any Condominium property (whether Units or Common Area) for other than the repair, replacement or reconstruction of the Condominium property.

10.6.2 Material Adverse Amendments: The approval of Mortgagees who represent at least 51% of the votes of Condominiums that are subject to Mortgages must be obtained prior to: (a) the adoption of any amendment of a material adverse nature to Mortgagees; or (b) any action to terminate the legal status of the Development after substantial destruction or condemnation or for other reasons. Approval from a Mortgagee shall be assumed if a Mortgagee fails to submit a response to any written proposal for an amendment or proposed action within 60 days after the Mortgagee receives proper notice of the proposal, provided the notice was delivered by certified or registered mail within a "return receipt" requested.

10.7 Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of any first Mortgagees pursuant to their Mortgages in case of payment to the Condominium Owners of insurance proceeds or a condemnation award for losses to or taking of Condominium Units or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Development is to such extent void.

10.8 Mortgagee Notice. If any Owner is in default under any provision of this Declaration or under any provision of the Articles, Bylaws or the Rules and the default is not cured within 60 days after written notice to that Owner, the Association, upon request, shall give to any first Mortgagee of such Owner a written notice of such default and of the fact that the 60-day period has expired.

Any Mortgage holder or guarantor shall have the right to timely written notice of any of the following:

(i) any condemnation or casualty loss that affects either a material portion of the Development or the Condominium securing the Mortgage;

(ii) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Unit encumbered by the holder's, insurer's or guarantor's Mortgage;

(iii) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(iv) any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

10.9 Right of First Refusal. No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium is imposed by this Declaration, the Articles, Bylaws or in any deed restriction of any deed from the Declarant to the first purchaser of the Condominium except the Condominiums participating in the Affordable Housing Program described in **Section 2.17**.

10.10 Unpaid Assessments. Any first Mortgagee of a Mortgage recorded prior to the recordation of a Notice of Delinquent Assessment who obtains title to a Condominium pursuant to the foreclosure procedures will not be liable for unpaid delinquent assessments accrued before the acquisition of title to the Condominium by the Mortgagee.

ARTICLE 11 - Amendments

11.1 Amendment Before Close of First Sale. Before the close of the first sale of a Condominium in the Development to a purchaser other than Declarant or an entity controlled by Declarant, this Declaration may be amended in any respect or rescinded by Declarant by recording an instrument amending or rescinding this Declaration. The amending or rescinding instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the county in which the Development is located. For purposes herein, a Person is considered controlled by Declarant if the Declarant holds 50% or more of the capital and profit interests if a partnership or

limited liability company, 50% or more of the voting shares if a corporation, and 50% or more of the beneficial interests if a trust.

11.2 Amendment After Close of First Sale . After the close of the first sale of a Condominium in the Development to a purchaser other than Declarant or an entity controlled by Declarant, this Declaration may be amended or revoked in any respect with the vote or written consent of the holders of not less than 51% of the voting rights of each class of Owners or, if a single class of Owners is then in effect, by the vote or written consent of not less than 51% of all votes and 51% of the votes excluding Declarant. If any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Owners in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Owners shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other Person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Notwithstanding anything herein to the contrary, any provision in this Declaration that specifically confers rights or benefits on Declarant as the Declarant and not on any other Owner, including but not limited to, Declarant rights under **Sections 2.6** and **2.7**, may not be amended or rescinded without the prior written consent of Declarant except as expressly authorized by Civil Code section 1355.5. The amendment is effective when it has been approved by the appropriate percentage of Owners as required herein, the approval has been certified in a writing executed and acknowledged by the officer designated in this Declaration or by the Association for that purpose (or, if no one has been designated, the President of the Association), and the amendment and certification have been recorded in the county in which the Development is located.

11.3 Special Amendment Requirements . Notwithstanding anything herein to the contrary, no amendment affecting the dimensions of any Unit or the interests in the Common Area or Exclusive Use Common Area shall be effective without the consent of all Owners whose Units, Common Area interests or Exclusive Use Common Area rights are affected by the amendment, except as authorized in **Sections 2.10 and 9.9**. The rights of any licensee as set forth in **Section 2.6** may not be terminated, rescinded or amended without the prior written consent of the licensee except as expressly authorized in **Section 2.6** and the rights of the Owner of the Condominium assigned multiple parking spaces under **Section 2.13** and the provisions of **Section 3.1.3** may not be terminated or rescinded or amended without the prior written consent of this Condominium Owner. The provisions of this **Section 11.4** may not be amended without the unanimous consent of the total voting power of the Association and any licensee of a Licensed Parking Space or Licensed Storage Space.

11.4 Corrections . Notwithstanding anything herein to the contrary, Declarant reserves the right as the attorney-in-fact for each Condominium Owner to record an amendment or appropriate instrument of correction to correct any errors in this Declaration, or any exhibits thereto, including any Condominium Plans, and the consent of neither the Association nor any Condominium Owner shall be required provided that if the correction affects the size, location or access or use rights to any Unit or any Exclusive Use Common Area appurtenant to that Unit, the consent of that Unit Owner shall be required.

11.5 Amendment Rights of Commercial Owners . Notwithstanding anything herein to the contrary, any amendment that affects the right of any Commercial Condominium Owner under the provisions of **Sections 1.6, 3.1.2, 3.2, 3.3, 3.9, 4.5** and **8.2.1(c)** will not be effective without the prior written consent of each Commercial Condominium Owner affected by the amendment. No Rules shall be adopted that would unreasonably interfere with the right of a Commercial Owner to or its tenant to conduct any activity within the Commercial Condominium authorized under **Section 3.1.2**. In addition, any amendment that alters the formula for allocating assessments to the Commercial Condominiums as set forth in **Section 6.9** shall not be effective without the prior written consent of the Commercial Condominium Owners. The provisions of this **Section 11.5** may not be amended without the prior written consent of the Commercial Condominium Owners.

ARTICLE 12 - Declarant Disputes

Any claim, dispute or other controversy between: (i) the Association and/or any Owner(s) and (ii) the Declarant or any affiliated general contractor or affiliated contractor who is a "builder" within the meaning of Civil Code section 911, or any director, officer, member, shareholder, partner, employee or agent thereof (individually and collectively the "Declarant" for purposes of this **Article 12**) and/or any non-affiliated general contractor, non-affiliated contractor, subcontractor, material supplier, individual product manufacturer, design professional or any other Person that provided materials or services to the Development on behalf of Declarant, relating to this Declaration, the use, condition, design, specifications, surveying, grading, construction, installation and/or operation of any Improvements or landscaping located within the Development, including any claims made under Civil Code sections 896 and 897 (individually and collectively the "Claim") shall be subject to the claims procedures set forth in **Exhibit E** attached hereto and incorporated herein.

The claims procedures in **Exhibit E** do not apply to any action taken by the Association to enforce delinquent assessments against Declarant, which shall be governed by **Section 6.10** of this Declaration.

ARTICLE 13 - Miscellaneous Provisions

13.1 Headings . The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

13.2 Severability . The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions or any portion thereof shall not invalidate any other provision or any portion of the provisions not found invalid or unenforceable.

13.3 Cumulative Remedies . Each remedy provided for in this Declaration shall be cumulative and nonexclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

13.4 Discrimination . No Owner shall execute or cause to be recorded any instrument that imposes a restriction on the sale, leasing or occupancy of the Owner's Condominium on the basis of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in Government Code section 12955(p), or ancestry.

13.5 Notification of Sale . No later than five days after the closing of the sale of any Condominium, the new Owner shall notify the Association of such sale. Such notification shall be in writing and shall set forth the name and address of the new Owner and the date of sale.

13.6 Reservation or Grant of Easements . Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in any deed to any Condominium.

13.7 Incorporation of Exhibits . All exhibits referred to herein and attached to this Declaration are incorporated herein by reference as fully set forth herein.

13.8 Enforcement Rights and Remedies . The covenants, restrictions, rights and duties contained in this Declaration constitute covenants running with the land and equitable servitudes that benefit and bind each Condominium in the Development, each Owner, and each successive Owner thereto, and may be enforced by the Association, the Declarant or any Owner in any legal or equitable action pursuant to the procedures described herein. Declarant may enforce any covenants, restrictions,

and rights set forth in this Declaration that expressly benefit Declarant without regard to whether Declarant owns any Condominiums in the Development.

Each Owner acknowledges and agrees that if any Person breaches any of the restrictions contained herein, money damages may not be adequate compensation. As a result, each Owner agrees that in the event of a breach, the non-breaching party, in addition to any other remedy available at law or equity, shall be entitled to equitable relief, including, but not limited to, an order compelling the breaching party to perform an act which the party is required to perform under this Declaration or which is necessary to bring the breaching party or the breaching party's Condominium into compliance with restrictions contained herein or prohibiting the breaching party from performing any act that violates the restrictions.

Notwithstanding anything herein to the contrary, the Association shall have the exclusive right to levy assessments and to take appropriate action to enforce delinquent assessments, including imposition of an assessment lien and the foreclosure of the lien. Furthermore, the Association shall have the primary responsibility for enforcing the restrictions contained in **Article 3** and the architectural provisions contained in **Article 7**. If any Owner or occupant desires the Association to take any enforcement action, the Owner or occupant shall notify the Association in writing of the alleged violation. On receipt, the Board shall review the matter and shall determine what action, if any, to take. Neither the Board nor the Association or any director, officer or agent thereof shall be liable if the Board in the exercise of its judgment elects not to take any action. To the extent applicable, the Board shall comply with the due process requirements described in this Declaration. If within 90 days after receipt of the notice the Board has failed to take any corrective action and the alleged violation has not been cured and is continuing, any Owner may bring an action on the Owner's behalf for appropriate legal and/or equitable relief. In such action, the Owner shall bear his or her own costs and attorneys' fees, provided that the prevailing party in such action shall be entitled to recovery of such costs and fees.

Prior to the commencement of any action by the Association, the Declarant or Owner to enforce the Governing Documents, the Davis-Stirling Common Interest Development Act (Civil Code sections 1350-1376) or the Nonprofit Mutual Benefit Corporation Law (Corporations Code sections 7110-8910), the Association, the Declarant or the Owner shall comply with the requirements of Civil Code sections 1369.510 through 1369.560 to the extent applicable.

13.9 Term . The term of this Declaration shall be for a period of 50 years from the date on which this Declaration is recorded in the records of the county in which the Development is located. After that time, this Declaration and each of its restrictions and covenants and other provisions automatically shall be extended for successive ten-year periods unless this Declaration is rescinded by the written consent of Owners holding a majority of the total voting power of the Association. The rescission shall be effective on recordation of a notice of rescission in the records of the county in which the Development is located.

13.10 Reserved Rights of Declarant . Declarant is recording this Declaration as part of the construction of a residential development. No covenant or restriction contained herein shall be applied in any manner that would unreasonably interfere with Declarant's rights to complete the construction of the Improvements and to sell the Improvements. The rights retained by Declarant during the construction and sales period include, but are not limited to, the right to:

- (i) maintain construction equipment, personnel and materials on the Property;
- (ii) use such portions of the Property as may be necessary or advisable to complete the construction or sales;
- (iii) maintain construction and/or sales offices on the Property and appropriate parking to accommodate the foregoing;
- (iv) maintain sale signs or other appropriate advertisements on the Property;
- (v) maintain model homes for viewing by prospective purchasers; and

(vi) allow prospective purchasers access to the Property to inspect any Common Area or any model homes.

13.11 Assignment by Declarant . Declarant may assign all or any portion of its rights and delegate all or any portion of its duties to any other Person; and from and after the date of such assignment and/or delegation, the Declarant shall have no further rights and/or duties hereunder with respect to the rights assigned and duties delegated. Any successor or assignee of the rights and duties of the Declarant shall execute an instrument assuming the rights and duties of the Declarant hereunder and thereafter shall be entitled to exercise all the rights of Declarant so assigned and shall be obligated to perform all the Declarant's duties so delegated, provided such successor or assignee shall not be liable in any manner for any act or omission committed or omitted by the Declarant before the date the successor or assignee succeeded to the rights of the Declarant hereunder.

13.12 Attorneys' Fees . Except as otherwise provided herein, in the event of any litigation or alternative dispute resolution procedure regarding the rights or obligations of the Declarant, the Association or any Person subject to this Declaration, the prevailing party in such proceeding, in the discretion of the judge or decision-maker, shall be entitled to recover costs, including reasonable attorneys' fees.

13.13 Notices . Any notice permitted or required by this Declaration, the Articles, Bylaws or Rules shall be considered received on the date the notice is personally delivered to the recipient or 48 hours after the notice is deposited in the United States mail, first-class, registered or certified, postage fee prepaid and addressed to the recipient at the address that the recipient has provided the Association for receipt of notice or, if no such address was provided, at the recipient's Condominium address in the Development.

13.14 No Enforcement Waiver . Failure to enforce a restriction in the past in and of itself shall not constitute a defense to any action brought against any Owner for violation of any restriction contained herein. Each Owner, by acceptance of a deed to a Condominium in the Development, acknowledges that the enforcement of these restrictions may vary as a result of different Owners, Boards or Architectural Committees, changing conditions, or other reasons and agrees that the failure of any Owner, Board or Committee to enforce any particular restriction, even if such failure is for an extended period of time, shall not in any manner restrict or estop the right of any Owner, Board or Committee to enforce these restrictions at any future time.

Declarant has executed this Declaration as of _____, 2007.

601 KING, LLC,
a Delaware limited liability company

By: 601 King Street Associates, LLC
a California limited liability company
Its Manager

By: AF Evans Company, Inc.
a California corporation
Its Manager

By: _____
Its _____

By: _____
Its _____

STATE OF CALIFORNIA)
)ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, 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)

EXHIBIT A - Restricted Commercial Uses

No Commercial Condominium shall be used for any of the following purposes unless approved in a writing approved by the Board:

1. Animal hospitals
2. Classroom instruction for more than 8 students at one time
3. Dance or night clubs
4. Maintenance and storage of equipment, materials and other accessories for the construction and service trades
5. Medical and dental offices, clinics and laboratories (not including counselors/psychotherapists)
6. Welding or other uses of open fire or flame
7. Commercial cooking
8. Laboratories utilizing hazardous chemicals or materials
9. Amusement Center
10. Bingo or game parlor
11. Billiards parlor
12. Beauty parlor
13. Recording studio or any related commercial music production use
14. Taxidermy shop
15. Sale or distribution of graphically-explicit sexual images
16. Massage services
17. Central laundry or dry cleaning plant
18. Coin-operated laundry
19. Funeral parlor or mortuary
20. Off-track betting establishment
21. Sale, display, rental, leasing, repair or storage of parts for automobiles, motorcycles, boats, trucks, trailers, recreational vehicles, mobile homes or other motor vehicles
22. Tattoo parlor
23. Church
24. School or other educational facility (day care facilities are not restricted)

EXHIBIT B - Estimated Unit Square Footage Amounts

These square footage amounts are estimates only. They were obtained from the DRE Budget described in **Section 6.9**. The amounts were derived from plans and not actual measurements. The actual measurements may differ. The amounts in this **Exhibit B** shall control if there is any conflict from the actual measurements.

No prospective Owner should rely on these estimates in making a decision to acquire a Condominium.

| Unit Number | Estimated Square Footage |
|--------------------|---------------------------------|
| R1 | 1,280 |
| R2 | 5,155 |
| TH-01 | 898 |
| TH-02 | 897 |
| TH-03 | 1,062 |
| TH-04 | 1,080 |
| TH-05 | 914 |
| TH-06 | 914 |
| TH-07 | 1,076 |
| TH-08 | 1,064 |
| TH-09 | 897 |
| TH-10 | 897 |
| TH-11 | 897 |
| TH-12 | 893 |
| TH-13 | 995 |
| TH-14 | 995 |
| TH-15 | 1,255 |
| TH-16 | 1,149 |
| TH-17 | 984 |
| TH-18 | 975 |
| TH-19 | 1,019 |
| TH-20 | 997 |
| LL-1 | 1,019 |
| LL-2 | 1,094 |
| LL-3 | 1,239 |
| LL-4 | 495 |
| LL-5 | 1,239 |
| LL-6 | 535 |
| LL-7 | 1,239 |
| LL-8 | 495 |
| LL-9 | 714 |
| LL-10 | 535 |
| LL-11 | 725 |
| LL-12 | 495 |
| LL-13 | 714 |
| LL-14 | 535 |
| LL-15 | 725 |
| LL-16 | 495 |
| LL-18 | 535 |
| LL-19 | 1,104 |
| LL-20 | 970 |

| Unit Number | Estimated Square Footage |
|--------------------|---------------------------------|
| LL-21 | 970 |
| LL-22 | 1,111 |
| LL-23 | 1,139 |
| LL-24 | 1,150 |
| LL-25 | 1,142 |
| LL-26 | 1,150 |
| LL-27 | 1,546 |
| LL-30 | 685 |
| LL-31 | 725 |
| LL-32 | 686 |
| LL-33 | 714 |
| LL-34 | 685 |
| LL-35 | 725 |
| LL-36 | 686 |
| LL-37 | 714 |
| LL-38 | 1,140 |
| LL-39 | 725 |
| LL-40 | 1,140 |
| LL-41 | 714 |
| LL-42 | 1,140 |
| LL-43 | 725 |
| LL-45 | 714 |
| LL-46 | 1,021 |
| LL-47 | 1,019 |
| LL-50 | 685 |
| LL-51 | 897 |
| LL-52 | 685 |
| LL-53 | 906 |
| LL-54 | 1,140 |
| LL-55 | 1,019 |
| LL-56 | 1,140 |
| LL-58 | 1,021 |
| 100 | 1,094 |
| 101 | 770 |
| 102 | 495 |
| 103 | 943 |
| 104 | 535 |
| 105 | 943 |
| 106 | 495 |
| 107 | 943 |
| 108 | 535 |
| 109 | 496 |
| 110 | 495 |
| 111 | 535 |
| 112 | 535 |
| 113 | 496 |
| 114 | 495 |
| 115 | 545 |

| Unit Number | Estimated Square Footage |
|--------------------|---------------------------------|
| 116 | 542 |
| 117 | 1,104 |
| 118 | 970 |
| 119 | 970 |
| 120 | 1,111 |
| 121 | 896 |
| 122 | 901 |
| 123 | 901 |
| 124 | 894 |
| 125 | 1,547 |
| 130 | 549 |
| 131 | 545 |
| 132 | 495 |
| 133 | 496 |
| 134 | 535 |
| 135 | 535 |
| 136 | 495 |
| 137 | 496 |
| 138 | 945 |
| 139 | 535 |
| 140 | 949 |
| 141 | 496 |
| 142 | 949 |
| 143 | 535 |
| 145 | 496 |
| 146 | 770 |
| 147 | 770 |
| 150 | 549 |
| 151 | 691 |
| 152 | 496 |
| 153 | 690 |
| 154 | 941 |
| 155 | 770 |
| 156 | 941 |
| 158 | 770 |
| 200 | 1,094 |
| 201 | 770 |
| 202 | 503 |
| 203 | 944 |
| 204 | 535 |
| 205 | 944 |
| 206 | 495 |
| 207 | 944 |
| 208 | 535 |
| 209 | 498 |
| 210 | 495 |
| 211 | 534 |
| 212 | 535 |

| Unit Number | Estimated Square Footage |
|--------------------|---------------------------------|
| 213 | 497 |
| 214 | 495 |
| 215 | 545 |
| 216 | 542 |
| 217 | 1,104 |
| 218 | 970 |
| 219 | 970 |
| 220 | 1,111 |
| 221 | 896 |
| 222 | 901 |
| 223 | 901 |
| 224 | 895 |
| 225 | 1,545 |
| 230 | 549 |
| 231 | 545 |
| 232 | 495 |
| 233 | 496 |
| 234 | 535 |
| 235 | 538 |
| 236 | 495 |
| 237 | 496 |
| 238 | 945 |
| 239 | 536 |
| 240 | 945 |
| 241 | 496 |
| 242 | 945 |
| 243 | 536 |
| 245 | 499 |
| 246 | 770 |
| 247 | 770 |
| 250 | 549 |
| 251 | 691 |
| 252 | 496 |
| 253 | 690 |
| 254 | 941 |
| 255 | 770 |
| 256 | 942 |
| 258 | 770 |
| 300 | 1,094 |
| 301 | 770 |
| 302 | 503 |
| 303 | 944 |
| 304 | 535 |
| 305 | 945 |
| 306 | 496 |
| 307 | 945 |
| 308 | 535 |
| 309 | 498 |

| Unit Number | Estimated Square Footage |
|--------------------|---------------------------------|
| 310 | 496 |
| 311 | 534 |
| 312 | 535 |
| 313 | 496 |
| 314 | 495 |
| 315 | 545 |
| 316 | 542 |
| 317 | 1,104 |
| 318 | 970 |
| 319 | 970 |
| 320 | 1,111 |
| 321 | 889 |
| 322 | 889 |
| 323 | 889 |
| 324 | 895 |
| 325 | 1,546 |
| 330 | 549 |
| 331 | 545 |
| 332 | 495 |
| 333 | 496 |
| 334 | 535 |
| 335 | 538 |
| 336 | 495 |
| 337 | 496 |
| 338 | 945 |
| 339 | 536 |
| 340 | 945 |
| 341 | 496 |
| 342 | 945 |
| 343 | 536 |
| 345 | 499 |
| 346 | 770 |
| 347 | 770 |
| 350 | 548 |
| 351 | 691 |
| 352 | 496 |
| 353 | 690 |
| 354 | 941 |
| 355 | 770 |
| 356 | 942 |
| 358 | 770 |

EXHIBIT C - General Common Expenses Prorated Items

ADMINISTRATIVE

Insurance - Package
Miscellaneous Administrative (3% of category)

BUILDING EXTERIORS

Caulking
Metal Siding Paint
Metal Siding Repair
Stucco Paint
Stucco Repair
Glass/Steel Soundwall
Screen Wall

ROOFING SYSTEM

Built Up Roofing
Roof Drainage
Metal Roofing
Roof Inspection & Repair

EXHIBIT D - Residential Common Expenses Prorated Items

CUSTODIAL

Window Washing
Miscellaneous Custodial (3% of category)

UTILITIES

PG&E - Natural Gas
Water and Sewer
Refuse Collection
Miscellaneous Utility (3% of category)

MECHANICAL SYSTEMS - WATER

Booster Pumps
Circulation Pumps
Water Heaters

MECHANICAL SYSTEMS - TRASH

Trash Chutes
Trash Chute Doors
Trash Compactor Repair

EXHIBIT E - Claims Procedure

888 SEVENTH STREET

CLAIMS PROCEDURE

EXHIBIT E

This Exhibit contains alternative dispute resolution procedures. These procedures bind subsequent purchasers as well as initial purchasers. You are advised to read these procedures carefully and consult with legal counsel if you have any questions.

This document describes the procedures for filing claims against Declarant and certain other designated parties related to this Development. Unless the context indicates otherwise, the definitions set forth in Article 1 of the Declaration shall apply in this Exhibit.

Any claim, dispute or other controversy between: (i) the Association and/or any Owner(s) (the "Claimant") and the (ii) Declarant or any affiliated general contractor or affiliated contractor who is a "builder" within the meaning of Civil Code §911 or any director, officer, member, shareholder, partner, employee or agent thereof (individually and collectively the "Declarant" for purposes of this Exhibit) and/or any non-affiliated general contractor, non-affiliated contractor, subcontractor, material supplier, individual product manufacturer, design professional or any other Person that provided materials or labor or other services to the Development on behalf of Declarant, relating to this Declaration, the use, condition, design, specifications, surveying, grading, construction, installation, budgeting and/or operation of any Improvements or landscaping located within the Development or maintained by the Association, including but not limited to any claims for violation of the functionality standards set forth in Civil Code sections 896 and 897, whether based in contract, tort or statute violation (individually and collectively the "Claim"), shall be subject to the claim procedures set forth in **Sections 1 and 2** of this Exhibit.

The procedures in this Exhibit do not apply to Declarant's normal customer service procedures. Owners are encouraged to resolve any potential Claim first through Declarant's normal customer service procedures.

Declarant, the Association and each Owner covenant not to commence any litigation without complying with the procedures described in **Sections 1 and 2**. If any party breaches the foregoing, the other party may obtain an appropriate order compelling the breaching party to comply with the procedures. Except as is expressly authorized by law, nothing herein shall reduce or extend any applicable time frame within which legal action must be commenced, including applicable statutes of limitation or repose and time frames set forth in Civil Code sections 896, 897 and 941.

Title 7 of Part 2 of Division 2 of the Civil Code (Civil Code sections 895 through 945.5) commonly known as "SB 800" sets forth functionality standards in Civil Code sections 896 and 897 that describe how the Improvements and landscaping within this Development should function during certain applicable time periods (the "Functionality Standards"). SB 800 impacts the legal rights of the Association and each Owner.

The Association and Owner have certain rights under SB 800 if the Improvement or landscaping fails to meet a Functionality Standard during the applicable time period. These rights may be lost as described in Civil Code Section 945.5, including if the Association or Owner: (1) fails to follow the Declarant's or the manufacturer's reasonable recommendations regarding inspection and maintenance, including schedules; (2) fails to follow commonly accepted homeowner maintenance guidelines; (3) fails to provide Declarant with timely notice after a discovery of the violation of the Functionality Standard or to allow Declarant reasonable and timely access for repairs; or (4) unreasonably fails to minimize or prevent damages in a timely manner.

Civil Code sections 910 through 938 contain prelitigation procedures for resolution of a claim for violation of Functionality Standards. As authorized by Civil Code section 914, Declarant may elect to use these prelitigation procedures or use alternative procedures. Declarant has elected to use the alternative nonadversarial prelitigation procedures set forth in **Section 1**. Declarant's election is made on behalf of Declarant and any affiliated general contractor or affiliated contractor that constitutes a "builder" within the meaning of Civil Code §911.

1. Nonadversarial Prelitigation Procedures The Claim is subject to the nonadversarial prelitigation procedures set forth in this **Section 1**.

1.1 Claim Notice. The Claimant shall notify Declarant in writing of the Claim addressed to the agent for service of the Claim Notice described in **Section 3**. The notice shall: (i) contain the Claimant's name and address and preferred method of contact; (ii) state that the Claimant elects to commence the procedures in this Exhibit to resolve the Claim; (iii) describe the Claim in reasonable detail sufficient to determine the nature and location, to the extent known, of the claimed violation; and (iv) if applicable, state that the Claimant alleges a violation of the Functionality Standards (the "Claim Notice").

1.2 Right to Inspect, and Right to Corrective Action. Within 30 days of Declarant's receipt of the Claim Notice, the Claimant and Declarant's representatives shall meet at the Claimant's property to discuss the Claim. At such meeting or at such other mutually-agreeable time, Declarant's representatives shall have full access to the property for the purposes of inspecting the property and investigating the Claim. The parties shall negotiate in good faith in an attempt to resolve the Claim. If the Claimant and Declarant cannot agree on the validity of the Claim, the corrective action needed, the party to take the corrective action or any other matter related to the Claim within 60 days of Declarant's receipt of the Claim Notice or such longer time as may be mutually acceptable to the Claimant and Declarant, either party may commence the mediation procedures described in **Section 1.3** below. If the parties agree on any corrective action, Declarant's representatives shall be provided full access to the property to take and complete corrective action. Declarant shall commence the corrective work no later than 30 days following the Claimant's acceptance of the proposed corrective action, and shall use commercially reasonable efforts to complete the work within 90 days. If Declarant fails to respond to the Claim Notice or fails to meet with the Claimant within the time period required herein, the Claimant is released from any further obligation to comply with the nonadversarial procedures in this **Section 1** and may proceed to initiate the binding adversarial procedures in **Section 2**.

1.3 Mediation. If the Claim is not resolved in accordance with the procedures described in **Section 1.2** and except as otherwise provided in **Section 1.2**, either the Claimant or the Declarant may submit the Claim to mediation under the mediation procedures adopted by the Judicial Arbitration and Mediation Services ("JAMS") or any successor thereto or to any other entity offering mediation services that is acceptable to the Claimant and the Declarant. The parties shall cooperate so that the mediation hearing can be held as soon as practicable. If the mediation hearing cannot take place within 90 days of Declarant's receipt of the Claims Notice or such later date as may be acceptable to Claimant and Declarant, the parties are released from any further obligation under this **Section 1.3** and either party may proceed to initiate the binding adversarial procedures described in **Section 2**.

Each party shall bear its own mediation expenses provided that the initial mediation administrative fee and the mediator's fee for a maximum of four hours shall be borne by Declarant and thereafter equally by the parties unless they agree otherwise. Any party to the mediation may at anytime after a minimum of four hours of mediation terminate the mediation by notifying the other parties and the mediator and proceed to the binding adversarial procedures described in **Section 2**.

No person shall serve as a mediator who has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

Each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved within ten days of the selection of the mediator or within such time frame established by the mediator. The mediation shall be commenced within ten days following the submittal of the memoranda. The mediation shall be held in the county in which the property is located or such other place as is mutually acceptable to the parties.

The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Claim. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Claim, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

The mediation shall be subject to the provisions of Evidence Code sections 1115 through 1128, or any successor statutes thereto, except as the parties may agree otherwise in writing or orally in accordance with the requirements of Evidence Code section 1118.

Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of the parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by the mediator while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

If the Claim is not resolved in accordance with these nonadversarial prelitigation procedures, the Claim shall be resolved in accordance with the binding adversarial procedures set forth in **Section 2**.

2. Binding Adversarial Procedures If Claimant and Declarant cannot resolve the entire Claim in accordance with the procedures in **Section 1** of this Exhibit or if corrective action is undertaken by Declarant and the parties disagree on the adequacy of the corrective action or any other claims arising from the corrective action, the portion of the Claim not resolved, including any unresolved claims arising out of the corrective action undertaken by Declarant or Declarant's agents, shall be resolved in accordance with the following binding adversarial procedure.

Either party may commence litigation in any court of competent jurisdiction.

3. Agent for Services of Claim Notice Notice of any Claim against Declarant or any affiliated general contractor or affiliated contractor who is a "builder" within the meaning of Civil Code section 911, including Civil Code sections 896 and 897 claims, or requests for information including requests for

copies of the documents described in **Section 4**, shall be served on Declarant's agent via certified mail, overnight mail or personal delivery. The name and address of Declarant's agent for this purpose is:

Claims Procedure Agent - 888 Seventh Street
1000 Broadway, Suite 300
Oakland, CA 94607

If the notice cannot be served on Declarant's agent at the above-referenced address because the agent is no longer located at the address or the agent has changed and Declarant has not provided the Claimant with an updated address or the name and/or address of the new agent, the Claimant may serve the claim notice on Declarant's agent for notice under Civil Code section 912(e) on file with the California Secretary of State's office in Sacramento, California. The current telephone numbers and website for the Secretary of State's office are: (916) 657-5448 or (916) 653-3984 and www.ss.ca.gov. Written request can be mailed to the California Secretary of State, Special Filings, P.O. Box 942877, Sacramento, California, 94277-0001.

If the Claim notice is served via mail, it shall be assumed received by Declarant on the third business day following deposit into the U.S. Mail. If delivered via overnight mail, such as Federal Express or UPS, it shall be assumed received on the next business day. If delivered personally, it shall be assumed received on the date of personal delivery. These assumptions may be rebutted by Declarant if Declarant did not receive actual notice.

4. Documents and Subsequent Owners Declarant has provided copies of the following documents to the initial purchasers of homes in this Development:

- (i) inspection and maintenance schedules and guidelines;
- (ii) a limited fit and finish warranty and manufacturers' products limited warranties; and
- (iii) a copy of Title 7 of Part 2 of the Civil Code (SB 800).

The initial purchasers shall retain the foregoing documents (the "Documents") and on transfer of title to the Property to a subsequent owner shall transfer the Documents or provide true and complete copies to the new owner(s) on or before transfer of title and instruct the new owner(s) that they are to retain the Documents and transfer or provide copies to any subsequent owner(s). **Replacement copies of the Documents may be obtained from Declarant by contacting Declarant at Declarant's principal place of business or through the agent for claim notice purposes described in Section 3 of this Exhibit.** Declarant may charge a reasonable fee for providing replacement copies. Initial purchasers and subsequent owners must comply with the inspection and maintenance guidelines provided by the Declarant and any manufacturer.

5. **Covenants** The covenants, restrictions, rights, duties, benefits and burdens set forth herein benefit and bind each Condominium and each Owner and successive Owner thereto as covenants running with the land and equitable servitudes and as authorized under Civil Code sections 945 and 1354.

6. **Amendments** Notwithstanding anything in the Declaration to the contrary: (i) the provisions in this Exhibit may not be modified or waived without the prior written consent of Declarant; and (ii) the provisions in this Exhibit may be modified or waived with respect to any particular Claim with the written consent of Declarant and the Claimant or Claimants that made the Claim. The Board of Directors shall have full power and authority to approve any modifications or waivers with Declarant with respect to any Claim made by the Association. In addition, the provisions in this Exhibit may be modified with respect to any Condominiums owned by Declarant by filing an amendment to this Exhibit in the records of the County in which the Development is located. The amendment shall affect only Condominiums owned by Declarant at the time the amendment is recorded and such other Condominiums whose owners consent to the amendment in writing.

7. **Claims Filing Period** Nothing herein extends any time periods in which a Claim must be filed under Civil Code sections 896 or 897 or otherwise extends any applicable statutes of limitations or statutes of repose, except as expressly authorized by law.

APPENDIX I - Unit Maintenance and Repair Responsibilities¹

Note: This Appendix is not intended to be an all inclusive list of the items maintained either by the Owner or the Association. Its purpose is to describe maintenance responsibilities over certain items where there may be some uncertainty as to the responsible maintaining party. Unless otherwise limited, maintenance means inspection, cleaning, maintenance, repair and replacement.

ASSOCIATION

Within the Unit

Building fire alarm system
Structural repairs to load-bearing walls (except sheetrock and wallboard)
Fire sprinkler heads

Within the Common Area:

Unit exterior door surfaces (repainting only)
Balcony railings and surfaces
Elastomeric balcony membranes
Cleaning exterior window surfaces (Residential Condominiums Only)
Repair and replacement of windows (Residential Condominiums Only)

[Except as noted, the Association maintains all other Common Area Improvements and landscaping.]

CONDOMINIUM OWNER

Within the Unit:

Interior doors and hardware
Interior walls (except structural repairs to load-bearing walls)
Wall coverings (e.g., wallpaper)
Floor coverings (e.g., tile, carpets, carpet pads, and hardwood floors)
Ceiling coverings
Paint
Light fixtures and light bulbs
Cabinets
Appliances (e.g., refrigerators, stoves, ovens, dishwashers, garbage disposals, trash compactors)
Electrical system (e.g., light fixtures, light switches, light bulbs, bathroom fan fixtures, and wiring)
Heating system (e.g., baseboard electric heaters, wall-mounted electrical heaters, heater fans and components)
Plumbing and water system (e.g., toilets, showers, tubs, faucets, pipes and drains)
Window coverings
Door locks
Door bells
Door thresholds
Mirrors
Smoke detectors
Trade fixtures

¹ The purpose of this exhibit is to describe the party responsible for maintaining and repairing certain items located within the Unit and within certain portions of the Common Area located in close proximity to the Unit in accordance with the provisions of **Sections 4.1 and 4.2.**

Within the Common Area:

Unit exterior door, including hardware (except repainting exterior surfaces)

Any lighting fixtures (including bulb replacement) that is connected into the Unit's electrical system (including front door and balcony exterior lights)

Windows, window seals and door screens (Commercial Condominiums Only)

Electrical wiring, plumbing pipes and drains that exclusively serve the Unit²

² Pursuant to **Section 4.1** of the Declaration these items shall be maintained and repaired by the Association and the cost shall be paid by the Condominium Owner.

DATE: November 25, 2013
TO: The Membership – 888 Seventh Street Owners Association
FROM: The Board of Directors
RE: 2014 Budget – Effective January 1, 2014

Each year the association's volunteer Board of Directors performs a very careful review of the past year's expenses and income to best project the amount to collect from each member in the upcoming fiscal year. When reviewing the budget, the Board considers several factors such as: recurring contract costs, inflation, utility usage and rates, insurance, and appropriate reserve contributions (savings) each month to pay for repair, restoration and/or replacement of common area components as needed.

As a result of this review, the Board has determined that overall budget can remain the same while meeting the association's financial needs in the upcoming fiscal year. The association's assessments are calculated on a variable assessment schedule which means our legal documents require some or all expenses be allocated differently based on unit size or type. This is called a "variable assessment" because the resulting assessment amount varies from unit to unit – *some may have an increase, while others may have a decrease or no increase.* A variable assessment schedule is included in this budget packet to show the amounts owed by each unit. Please review the schedule to determine your new assessment amount.

What Is Included In This Budget Packet?

State law and the association's governing documents require the Board of Directors to distribute the following documents annually to each member:

- A summary of the *pro forma* budget for the upcoming fiscal year
- Variable assessment schedule
- Assessment and Reserve Funding Disclosure Summary
- Executive Summary pages of the reserve study
- 5-Year Reserve Projection Model
- 30-Year Reserve Cashflow Analysis
- Delinquency Policy
- Written Notice of Assessments, Foreclosure, and Payment Plans
- Alternative Dispute Resolution (ADR) procedure
- Internal Dispute Resolution (IDR) procedure
- Discipline Policy
- Schedule of Penalties for Violation of the Association's Documents
- Architectural Submittal and Appeal process
- Insurance Summary

About the Reserve Study

California law requires the association's Board of Directors to "cause to be conducted" a reserve study with an onsite inspection at least once every three years. Although the

law does not require the Board to perform a reserve study in years two and three, the law does require an annual disclosure to be distributed to the membership in those years. To ensure that the association's major components are appropriately identified, the Board hires a professional reserve analyst for these services.* The "Executive Summary" in this packet will show whether or not a site inspection was completed this year as determined by the Board.

California law also requires the Board to make these disclosures about the association's reserve funds:

- 1) In the upcoming year, the association will fund reserves using the following sources:

| | <i>Type of Funding</i> |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | Regular Assessments |
| <input type="checkbox"/> | Special Assessments |
| <input type="checkbox"/> | Borrowing |
| <input type="checkbox"/> | Use of Other Assets |
| <input type="checkbox"/> | Deferral of Repairs |
| <input type="checkbox"/> | Alternate Mechanisms |

- 2) **The association has a total of \$1,154,235.19 in actual accumulated reserve funds as of September 30, 2013. The Board anticipates that the amount will increase to \$1,240,284.10 by the end of the current fiscal year. According to the reserve analyst, the total replacement cost for all major components is \$5,043,512. The current reserve fund amount represents 24.59% of the projected total replacement cost.** Although this number usually seems low, the legislature requires the Board to disclose (in boldface type) how much it would cost the association to rebuild all of its major common area components if they were replaced all at once.
- 3) According to the reserve analyst, at the start of the upcoming fiscal year the association is anticipated to be 60% funded to the "ideal funding level". That number represents the amount the association is anticipated to have on hand to repair or replace major components when they are scheduled to be repaired or replaced.

- 4) The Board of Directors has determined to defer or not undertake repairs or replacement of the following major components with a remaining life of 30 years or less (as identified in the reserve study as having zero estimated remaining life):

| <i>Item #</i> | <i>Item Description</i> | <i>Reason for Deferral or Decision to Not Undertake Repairs/Replacement</i> |
|----------------------|--|--|
| 1 | Building Exteriors – Metal guardrail – paint | Major maintenance not necessary this year |
| 2 | Building Exteriors – Siding & trim – paint | Maintenance not necessary this year |
| 3 | Building Exteriors – Siding & trim - repair | Maintenance not necessary this year |
| 4 | Building Exteriors – Metal doors – paint | Maintenance not necessary this year |
| 5 | Fencing/Walls – Wood fence - staining | Maintenance not necessary this year |
| 6 | Garage/ Parking – Gate operators | Maintenance not necessary this year |
| 7 | Elevators, Cab Refurbish – Allowance | Maintenance not necessary this year |
| 8 | Paved Surfaces – Asphalt – repair and seal | Maintenance not necessary this year |
| 9 | Elevators – System Enhancements/repairs | Maintenance not necessary this year |
| 10 | Elevators – 5 year load test | Operating expense |
| 11 | Furnishings/Appliances - Lobby | Maintenance not necessary this year |

Insurance Information

The association carries General Liability insurance in the amount of \$26,000,000 which meets the minimum amount specified in California law to ensure that owners are only individually liable for their proportionate share of special or regular assessments levied to pay any judgments against the association which exceed the limits of the association's insurance.

Additional disclosures about the association's insurance policies can be found within this packet, including the name(s) of the insurer(s), the types of insurance, the policy limits, and the amount of deductibles (if any).

Other Disclosures

The Board of Directors does not anticipate that any special assessment will be required during the upcoming fiscal year to repair, replace and/or restore any major components or to provide adequate reserves.

Please contact our community manager, Jessica Ince at 415-621-2788 or via e-mail at jessica.ince@fsresidential.com should you have any questions or if you would like to have a copy of the complete *pro forma* operating budget provided to you at the association's expense or a copy of the complete reserve study plan. These documents are also available for review at 888 Seventh Street, Management Office, San Francisco, CA 94107 by appointment.

ANNUAL POLICY STATEMENT – 888 Seventh Street

Effective January 1, 2014, the board is required to distribute an annual policy statement that provides the association members with information about its policies.

1. The name and address of the person designated to receive official communications to the association is the Manager on behalf of 888 Seventh Street Owners Association c/o FirstService Residential Management, 888 Seventh Street, Management Office, San Francisco, CA 94107.
2. Members may submit a request to the address noted above to have notices sent to up to two different specified addresses.
3. Civil Code permits the association to provide General Notices to the membership via newsletter, billing statement messages, or posting in a prominent location. If the association chooses to post notices, they will be located in the lobby and the elevators.
4. If you would like all notices, including general notices, to be sent to you by individual delivery, please notify the association's Manager in writing.
5. Copies of board meeting minutes for meetings that are open to the membership are available upon written request throughout the year. Minutes can be released to you thirty days following the meeting date and any charges involved for copying and postage for those minutes are the responsibility of the requesting owner. If the minutes are not approved by the Board within the 30-day period of the request, draft minutes will be provided to you.

* The association's board of directors has relied on information, opinions, reports and statements presented to it by vendors, contractors, reserve study specialists, CPA's and/or other professionals and is relying upon this information, financial data and reports pursuant to the California Corporations Code in providing the association membership the information contained in this Assessment Reserve Funding Disclosure Summary. The information contained within the reserve study includes assumptions regarding future events based on information supplied to the association's board of directors from said professionals. Some assumptions inevitably will not materialize and unanticipated events and circumstances may occur subsequent to the date of this Disclosure Summary. Therefore, the actual replacement cost and remaining life may vary from the reserve study and the variation may be significant. Additionally, inflation and other economic events may impact the reserve study, particularly over a 30-year period of time which could impact the accuracy of the reserve study and the funds available to meet the association's obligation for repair and/or replacement of major components during the next 30 years. Furthermore, severe weather conditions, earthquakes, floods or other acts of God, the occurrence of vandalism and other events that are difficult to anticipate cannot be accounted for and are excluded when assessing life expectancy of the components. The reserve study only includes items that the Association has a clear and express responsibility to maintain pursuant to the association's CC&Rs.



888 7th Street Owners Association

AMENDED RULES AND REGULATIONS

As amended August 9, 2017

INTRODUCTION

The Rules and Regulations adopted herein are intended as a guide to the conduct and activities of all members, tenants, residents, and their guests. Each owner or resident living within the building and using the facilities is entitled to maximum enjoyment of the premises without annoyance or interference from others, and without annoying or interfering with the rights of others.

CHANGES IN RULES AND REGULATIONS

The Board of Directors (the "Board") may, in accordance with the Bylaws, alter, amend, revoke or add to these rules and Regulations for the preservation of safety and order within the community, for its care and cleanliness and for the protection of the reputation thereof. When notice of any such alteration, amendment, revocation or addition is given to any owner or resident, it shall have the same force and effect as if originally made a part of the Rules and Regulations. Where approval or permission of the Board is required herein, such approval shall be in writing and formally approved by a majority vote of the Board.

Unit owners, including absentee unit owners, are responsible for ensuring that tenants and guests abide by the Rules and Regulations.

In the event of any contradiction between any of these Rules & Regulations and any provisions of the 888 Seventh Street Declaration of Restrictions (hereinafter referred to as the "CC&Rs"), the Articles, or Bylaws, the conflicting rule or regulation shall be superseded by the provisions of the CC&Rs, Articles, and the Bylaws.

VIOLATION OF RULES AND REGULATIONS

Indication of or actual violations will be brought to the attention of the responsible owner (and tenant, if any) in writing by the Building Manager following the policies established by the Board. Failure of an owner to correct a violation could result in the owner being subject to a fine or special assessment. Further failure to correct the violation may cause legal action to be taken. All expenses incurred by the 888 Seventh Street Owners Association (hereinafter referred to as "Association") to address and resolve a violation will be the responsibility of the unit Owner responsible for the violation. Unit Owners are responsible for all violations caused by their tenants, guests, pets, and other household occupants.

USE RESTRICTIONS

1. All residential condominium units shall be used for residential purposes only in conformance with the restrictions in the CC&Rs. No trade or business shall be conducted in the residential condominiums other than home offices as stated in Section 3.1.1 of the CC&Rs.
2. All commercial or business units shall be used for specific business purposes as defines in Article 3, 3.1.2 in the CC&Rs.
3. No Commercial Condominium may be used for residential use.
4. All business uses shall provide evidence to the Association of a valid business license issued by the local jurisdiction.



888 7th Street Owners Association

RENTAL RESTRICTIONS

1. Refer to your CC& R's and Property Management for direction on rental restrictions.
 - a. the lease or occupancy term is for a period of not less than 30 days;
 - b. the lease is in writing and provides that all terms and conditions are subject in all respects to the Homeowners' Association's CC&Rs, Bylaws, and Rules and Regulations; and
 - c. the lease provides that any violation of these requirements will constitute a default thereunder.
2. Unit owners must give the Building Manager the names and contact numbers of their tenants and each other member as may be living in residence of said unit. Owners shall instruct their tenants to contact the Building Manager for an orientation meeting. Owner's current address and contact numbers must be provided to the Building Manager as required in the CC&RsCC&Rs.
3. All owners must provide their tenants with a copy of the CC&Rs, Bylaws, Seller's Disclosure Statement(s) and these Rules and Regulations. Tenants must comply with the provisions of these documents. Owners are responsible for the actions and behavior of their tenants and their guests, pets and invitees and are financial liable for any damage to the common area improvements, equipment and furniture.
4. Owners are responsible for the proper repair, maintenance and upkeep of their units.
5. A copy of the lease agreement must be submitted to the Building Manager with a signed receipt from the tenant stating that they have received and read a copy of the CC&Rs, Bylaws, Disclosure Statement(s) and Rules & Regulations and that they agree to abide by the provisions therein. Appropriate forms can be obtained from the Building Manager.
6. No condominium shall be conveyed in any form of time increment basis (commonly referred to as "time sharing").
7. No condominium may be rented out or subleased to any business entity or individual persons in order to utilize as a hotel room or temporary quarters in any capacity.
8. Per Section 2.17 of the CC&Rs, The below Market Rate Condominiums in the Development participate in an affordable housing program operated by the San Francisco Mayor's Office of Housing. The participating Condominiums are subject to certain resale and rental restrictions as set forth in a recorded document in the records of the City and County of San Francisco, California against each condominium participating in this program on or before the date Declarant transfers title to the participating condominium.
9. Commercial Condominiums are not subject to provisions of Section 3.2 of the CC&Rs.

ANIMALS

1. Except as otherwise restricted below and in the CC&Rs, each unit is permitted no more than two normal and customary household domestic pets as defined in Civil Code section 4715(b), provided such animals are not kept, bred, or raised for commercial purposes (Refer to section 3.6, i to x in the CC&Rs for details). Board permission is required to keep any other type of pet. No pet shall be allowed on the premises that the Board determines to be a threat to the safety, welfare, quiet comfort or enjoyment of other residents. If the Board determines that a pet is a nuisance, annoyance or threat, the Board may require the pet to be removed from the



888 7th Street Owners Association

premises or may impose such other mitigation requirements on the Owner to eliminate the nuisance, annoyance or threat.

2. Owners are required to inform the Association of the type and breed of each pet upon commencement of occupancy, and provide the Association proof of registration and vaccinations.
3. All cats and dogs must be spayed or neutered. Pets are not allowed unless the applicable Pet Registration Forms have been completed.
4. Pet owners agree to comply with:
 - a. The California Health and Safety Code
 - b. All other applicable governmental laws and regulations such as but not limited to licensing, vaccinations, leashing, sanitation, etc.
5. All pets must be restrained on a leash at all times held by a person capable of controlling said pet while within the common areas and under no circumstances are they to be allowed to run free. Any pet found off-leash in the common area will be taken to the local animal shelter by calling the appropriate authorities. The Board, as well as every resident in the project, has the right to take such action. Any fees attributed to such actions are the sole responsibility of the owner of said pet.
6. No pets are allowed in the community activity room area at any time.
7. If a person already in an elevator should object to the entry of an animal into the elevator, the animal and its handler/owner must wait for another elevator or take the stairs.
8. In no event shall any Owner authorize, bring or keep on the Property (a) any pit bull, rottweiler, doberman pinscher, mastiff, canaria press, or any other dog breed known as a "fighting breed" or mix thereof; or (b) any snakes, pigs, large lizards, spiders, rats or vermin, or any other exotic or non-domesticated animals. Refer to section 3.6(ix) in the CC&Rs for details.
9. The common areas (including, but not limited to, hallways, stairwells, elevators, patios, decks, balconies, courtyards, roof deck, garage, sidewalks, and landscaping beds) shall not be used for relieving of pets' bodily functions. Any defecation or other bodily discharges must immediately be removed and disposed of by the pet's owner. The cost of cleaning and deodorizing common areas due to pet "eliminations or accidents" is the pet owner's obligation.
10. Damages to the common areas by pets shall be billed to the unit owner at the current replacement and/or repair cost, plus administrative expenses.
11. Pet owners are responsible for controlling the noise of their pets.
12. Pet owners are responsible for any personal injury or property damage caused by their pets.
13. Pets shall not be left unattended in any of the common areas, or on patios or balconies of a unit.



888 7th Street Owners Association

14. Residents shall not allow any visitor to bring a pet into the building. This rule does not apply to any animal used by a tenant or visitor that is needed as a reasonable accommodation for the tenant or visitor's disability (24 CFR Part 5 HUD regulations).

15. Exemption for Persons with Disabilities. Pursuant to California State law [HUD ref 4350.30, 4-14 (b)], service animals that assist persons with disabilities are considered to be auxiliary aids and are exempt from the pet rules #4 through #13 noted herein, and from any refundable pet deposit. Examples include guide dogs for persons with vision impairments, hearing dogs for persons with hearing impairments, and emotional assistance animals for persons with chronic mental illness.

16. Stray Animals and Wild Birds. The feeding of stray animals and wild birds is strictly prohibited as they pose a health hazard and are a nuisance to the other owners.

17. Use of the Common Area by pets shall be subject to such Rules as may be adopted by the Board.

DOORS, GATES AND SECURITY

1. All common area building entry doors, stair doors, garage gates, and sales office doors must remain locked at all times. Cars entering and exiting through the garage gates must wait immediately inside or outside the gate until it is completely closed to ensure that their opening of the gate does not permit the entry of any unauthorized persons or vehicles. Owners of units are expected to ensure compliance with this rule by their tenants, guests, cohabitants, and employees, and will be held responsible for any violation of this rule by their tenants, guests, cohabitants, or employees, including but not limited to imposition of fines consistent with the Fine Schedule herein. This precaution must be taken to safeguard the private property of the Association and the Residents.

2. Certain doors such as unit entry doors and stair doors must remain closed at all times when not in use in order to prevent the spread of fire in such an emergency. In addition, corridor fire doors and elevator doors which are held open by magnetic devices must not be obstructed or propped open by other means. These doors must be free to close automatically in the event of any emergency. Propping doors open or in any way interfering with the automatic locking mechanism of any door or gate when unattended, is prohibited. Any damage or loss resulting from such action shall be the financial responsibility of the person(s) performing such actions.

3. Damage caused to the garage gates and other doors shall be the financial responsibility of the person(s) causing the damage.

4. Sidewalks, entrances, passages, walkways and common areas must not be obstructed or used for any purpose other than entry to or exit from the premises.

5. It is the responsibility of each Resident to keep their own porch and/or entrance way clear, clean and free of debris.

6. Plants, planters, floor mats or other stand-alone items are not allowed in or around the corridor entrance of individual units.

ANTENNA/TELEVISION OR RADIO EQUIPMENT

The purpose of the guidelines is to inform occupants of condominiums in 888 Seventh Street regarding the restrictions on the installation and maintenance of antennas, satellite dishes or other telecommunication equipment



888 7th Street Owners Association

within 888 Seventh Street (collectively referred to as "Antenna Equipment"). Antenna Equipment must be installed and maintained in strict compliance with each of the following:

1. Location and Attachment Restrictions: Antenna Equipment may be placed inside your unit, deck or patio only. If placed within a deck or patio the Equipment must be free standing, may not be bolted or otherwise attached to any exterior roof, wall, siding, eave, overhang, floor surface, railing or fence, and must be located entirely within the boundaries of the deck or patio. For example, an antenna or dish may not extend beyond a deck railing or beyond a height, which is level with the ceiling of the adjoining unit.
2. Size Restrictions: A satellite dish cannot exceed one meter (39.37 inches) in diameter. An antenna for the receipt of video programming services via multipoint distribution services or wireless services cannot exceed one meter in diameter or diagonal measurement. There are no size restrictions on an antenna for local television broadcast services as long as the antenna fits entirely within the unit, deck or patio.
3. Wall/Door Penetration: No Antenna Equipment place may have any connecting wires, conduits or other equipment that penetrate any wall or door, including sliding glass doors. Appropriate wireless technology must be used to connect the Antenna Equipment to equipment located within your unit.
4. Color: The Architectural Committee may from time to time adopt restrictions regulating the color of the Antenna Equipment.
5. Notice: Prior to the installation of any Antenna Equipment, the owner or occupant must provide notice to the Association in a form provided by the Architectural Committee.

If any Antenna Equipment is installed in violation of these guidelines, the Owner must immediately remove the equipment and restore any area disturbed by the installation of the equipment. If the Owner fails to do so, the Association reserves the right to remove the equipment, restore any common area disturbed by the installation of the equipment and charge the owner of the unit for all removal and restoration costs. These guidelines are adopted pursuant to the authority of §3.7 of the (CC&Rs).

SIGNAGE AND DECORATIONS

1. No signage or decorative items of any kind may be affixed to or adjacent to the unit entry doors except as authorized by the Property Manager or the Board. All placards or postings must be compliant with applicable Federal, State, and local laws, regulations, and policies and must be pre-authorized by the Property Management and only posted in a place designated by Property Management as may be required by the HOA. Any damage to the common area finishes caused by the temporary mounting of such placards, signage or decorations, shall be repaired at the expense of the owner.
2. No decorations, displays, or holiday lighting shall be affixed to the exterior of the building.
3. The installation of "For Sale" or "For Rent" signs within the Common Area or lobby shall be in strict compliance with guidelines adopted by the Residential Board or the Architectural Committee.

(Refer to Section 3.8 and 3.9 of the CC&Rs for clarification for signage.)

SMOKING



888 7th Street Owners Association

1. There is NO SMOKING allowed anywhere in the common area of the project, including but not limited to the elevators, hallways, stairwells, lobbies, office, roof deck, courtyards, business center, fitness center, common bathrooms, sauna, steam room, garage, storage, utility rooms, balconies, patios, or other interior or exterior common areas of the complex, including the area in front of the main lobby entrance. The Board is authorized to impose fines on Owners for violations of this restriction.

2. Smoking is permitted within the confines of individual units, provided that smoke is prevented from migrating into the common area or other units in the building and creating an annoyance to other residents. Smokers are encouraged to turn on bath and kitchen exhaust fans in order to keep smoke from spreading to adjacent units and the common areas.

BUILDING ACCESS

1. The main entry gate is coded for security purposes. Do not loan or give any security door access keys and/or codes to vendors, delivery personnel or home service providers.

DISTURBING NOISES AND NUISANCES (Refer to Article 3, 3.3)

1. Residents are entitled to the quiet enjoyment of their homes, especially between the hours of 10:00 p.m. and 7:00 a.m. The close proximity of living areas and common walls dictates that common sense, good judgment and consideration should be used by residents and their guests at all times. Any activity which, by its nature, violates or has the potential to violate the right to quiet enjoyment by other residents shall be deemed a violation of the Rules and Regulations.

2. No speakers shall be affixed to any wall, ceiling, shelving or cabinet so as to cause vibrations discernible between the units or within the common area. Speakers shall be elevated from the floor by proper acoustic platforms. (Refer to Section 3, 3.16 in the CC&Rs).

3. No person shall produce noise or vibrations of any kind at such levels as will be discernable and off to other owners or residents.

4. No running, jumping, stomping, yelling, or loud conversation in the common areas or creating any other noise or nuisance is allowed.

5. No non-motorized wheeled recreational vehicles shall be operated or stored in any common areas, including but not limited to hallways, lobbies, elevators, garage, parking lots, walkways, lawns, or other common areas except as stated herein or as approved by the Board. For the purposes of this paragraph, wheeled recreational vehicles include but are not limited to bicycles, tricycles, wagons, scooters, segues, razors, skateboards, roller skates, in-line skates or similar devices. Such vehicles may only be stored within individual units or in designated storage areas. When transporting such vehicles through the common area, they must be carried to the extent practical, or rolled but not ridden. The owner/operator shall be responsible for any damage or personal injury caused by the transport of such vehicles through the common area.

6. Motorized vehicles such as motorcycles, go-carts and motorized scooters shall only be operated, or stored in designated areas as determined and permitted by the CC&Rs or the Board.

7. No person(s) shall discharge into the building's sewer system or storm drain any toxic or noxious matter as it could be detrimental or could endanger the public health, safety, welfare, violate any law, subject any owner,



888 7th Street Owners Association

resident or the Association to liability under state or federal law for clean-up, or cause injury or damage to neighboring property or businesses.

8. No use is allowed which creates conditions that are hazardous, noxious or offensive through the emission of odor, fumes, smoke, cinders, dust, gas, vibrations, glare, refuse, water-carried waste, or excessive noise.

9. No activity may be carried on which causes any insurance policy to be cancelled or not renewed or which will impair the structural integrity of the Development.

10. No running, loud conversation or loitering in hallways, elevator, entrance ways or parking areas or creation of any other noise or nuisance in the Common Area is allowed.

11. Use of Commercial Condominium as authorized under section 3.1.2 of the CC&Rs and conducted in compliance with all applicable laws and ordinances shall not constitute a nuisance.

MOVING IN & OUT

1. Move-ins/outs must be arranged and scheduled with the Property Management Agent. Moves are only allowed between the hours of 8 a.m. and 8 p.m., Monday through Saturday. Property Management reserves the right to adjust moving hours as deemed necessary. Moves and/or large deliveries are not allowed on Sundays or Holidays, except during initial occupancy move-ins.

2. Times must be reserved to avoid conflict with other move-in activities. Schedule your move as early as possible with the Property Manager so that the appropriate date and time can be reserved for you. Unfortunately, we cannot always honor your request for specific dates and times.

3. A refundable deposit is required prior to move in or out and/or delivery of large items. The deposit amount shall be set by the Board and is applicable to all damage, repair, losses or other liabilities incurred as a result of your move. You will also be responsible for the cost of any damage that may exceed the deposit amount. The move-in/out requirements and pre-scheduling with the Building Manager will remain applicable even after the initial move-in of all owners. The fee schedule is set by the Board.

4. Choose your moving company carefully. You are responsible and must reimburse the Association for damage to the common area incurred during your move. It is important that your moving company carry their own insurance for such damage and provides appropriate protection. Proof of insurance will be required by the Building Manager.

5. When your furniture arrives, the Building Manager, or designee, will walk with you and a representative from your moving company from the building point of entry to your unit and note any damage that might exist. When your move is completed, the walk through from point of entry to your unit will be repeated and any damage noted at that time. The cost to repair this damage will be your responsibility.

6. Packing materials and containers must not be disposed of outside of trash storage areas. These materials should be flattened and left by the dumpsters or as directed by your Property Management Agent. Any homeowner who disregards this regulation will be subject to a fine to cover any costs for cleanup and/or removal.

7. A Move-in processing fee of \$150 will be collected every time there is a change of residence in a unit and is not refundable. These fees only apply after the initial purchase or occupancy of a unit. These fees cover Association costs associated with any move.



888 7th Street Owners Association

MAIL & PACKAGE DELIVERIES

1. Mailbox and mailbox area are to be kept free of litter, signage, markings, or overflow of mail.
2. Resident is responsible for the upkeep of their personal mailbox.
3. Resident will notify management immediately if there is a problem with access to or maintenance of their mailbox.
4. Liability of Association - The Association shall bear no responsibility for any articles delivered to or left with any employee of the Association or Management Company. Further, the Association shall not be responsible for any article intended for delivery to a resident, delivered or left in any corridor or public place. No bailment is expressed or implied in such instances.

VENDORS, TRADESMEN & SERVICE PROVIDERS

1. Residents desiring tradesmen, vendors or service providers to enter their unit must be present during such visits, unless the Building Manager is notified in advance. Management will not be responsible to let tradesmen or others into a unit during the Resident's absence.
2. Owner is responsible for obtaining insurance from its vendors, tradesmen and service providers as required by the Board and Property Management Agent.

VEHICLE AND PARKING VIOLATIONS (Refer to section 3.4 of the CC&Rs for details)

1. Park in your reserved space(s) only.
2. Vehicles shall not be parked anywhere other than in designated parking spaces.
3. No recreational vehicles, motor homes, trailers, boats, or commercial trucks are permitted to park within the garage. Other oversized vehicles (e.g. vans, trucks) that do not fit within a single space within the garage shall not be allowed to park in the garage.
4. Vehicles with commercial signs or markings are subject to Board governance/control.
5. No inoperable or off-road vehicle shall be parked or stored in any parking area.
6. No unlicensed or uninsured motor vehicle shall be operated or parked upon the property.
7. Copies of current vehicle registration and proof of automobile insurance must be provided to the Building Manager upon move-in and annually thereafter.
8. No noisy or smoky vehicle shall be operated on the property.
9. No part of the Common Area shall be used for the repair, construction or reconstruction of any vehicle.
10. Bicycling, skateboarding, roller-skating, in-line skating or playing in the garage or garage entrance is prohibited.



888 7th Street Owners Association

11. Storage of items other than allowed vehicles in parking spaces is prohibited.
12. No vehicle repair/maintenance (other than emergency work) shall be permitted in the garage.
13. Any vehicle wrongfully parked or any vehicle that is parked in an unauthorized location will be towed away at the violator's expense without notice.
14. No vehicle washing is permitted on or in building premises.
15. Residents are responsible for keeping their parking area clean and free of debris and oil or other fluid spills.
16. Residents requesting HANDICAP PARKING must show proof of applicable handicap certified parking documents. Proof of renewal of these documents must be presented to the Building Manager on an annual basis.
17. Disabled residents have a first right of usage of the designated handicap stalls. If a disabled resident requires the use of a handicap stall, but is not occupying a unit with a deeded handicap stall, an agreement will be drawn up for an exchange of stalls with someone that has ownership of a handicap stall but is not in need of such handicap stall. This agreement will be directed and governed through the Association. Once the disabled resident no longer needs this stall, the agreement shall end and use of the handicap stall shall be return to the original owner. (Refer to §2.12 of the CC&Rs for details).
18. Vehicles in violation of these rules may be towed at owner's expense.

GARBAGE AND REFUSE DISPOSAL (Refer to Section 4.5 of the CC&Rs)

1. There are trash storage areas located throughout the property. All household garbage must be bagged in leak proof containers before disposal. This is required to protect hallway carpeting and to keep the trash area clean and minimize attraction of pests for general health and safe concerns. Open containers such as paper sacks, boxes, unsecured plastic bags and/or reusable garbage cans shall not be allowed. Secured bags are the only permissible trash containers.
2. Volatile or flammable materials, heavy or large objects are not to be disposed of in trash bins. Please contact the Building Manager or maintenance staff for proper disposal of such items. There may be an additional charge for disposal of certain items.
 - a. Trash bins use and transportation, in consideration of units located near them, may only be used between the hours of 7 a.m. and 10 p.m. daily.
3. No portion of the common area will be used as a dumping ground for rubbish, trash, garbage or other refuse.
4. No trash compactors are permitted to be installed within the residential units as the compacted garbage can cause damage.
5. When depositing trash in the bin, please make certain that all hands and fingers are away from the door before closing. Do not put your head, arms, hands, etc. in the bins. If the trash bin is full, please notify the Building Manager or maintenance staff immediately and refrain from depositing more trash.



888 7th Street Owners Association

6. In the event of damage to bags in the disposal process, residents are responsible for cleaning up their own trash spilled on common areas and disposing of it properly. Owners may be charged for special cleaning services provided by the Association.

7. Oversized items should not be forced into the bins or left outside the trash bin. No large items such as furniture or mattresses, or chemicals such as paint, insecticides, and motor oils, or electronic equipment are to be placed in the trash bins. These items are the responsibility of the owners to dispose of at an appropriate disposal or recycling facility according to all applicable laws. Oversized items may be disposed of by making special arrangements with the proper refuse disposal company in your area. The Building Manager or maintenance staff can assist with this, if needed.

8. Recyclables shall be placed in the proper recycling bins located within each trash area. If insufficient room is available in the bins within your designated trash area, please do not deposit along side recycling bins. Contact the Property Management Agent.

9. Biohazardous waste is not to be discarded along with regular trash. CalOSHA (CCR, Title 8 General Industry Safety Orders; and Subchapter 7 Group 16, Art 109, #5193), categorizes certain wastes as biohazards and mandates special handling for disposal. If you have any trash that contains blood, body fluids, hypodermic needles, or any toxic chemicals, you must make arrangements to have this trash processed through a special vendor. A sharps container (for needle disposal) may be ordered through your local pharmacy.

ARCHITECTURE/EXTERIOR APPEARANCE

1. To maintain a uniform outward appearance of the building, owners are limited to installing blinds or drapes with a white or off Appearance when viewed from the outside. Other colors may be used provided they are lined on the back with a white or off-white lining or secondary shear. Non-conforming window coverings are subject to review by the Board and may be required to be removed or modified. (Refer to section 3.11 of the CC&Rs for details).

2. Patios, decks and entrances to the units are to be kept clean and free of debris. No unsightly conditions will be permitted.

3. No private property shall be stored or left in the common areas.

4. No signs or other advertising device, whatsoever, including without limitation, commercial, political or similar signs, shall be erected on the building or posted within windows.

5. No exterior installation of any kind, including, but not limited to, radio poles, antennae, satellite dishes, flag poles, sun-shades, glass tinting (whether inside or outside the glass), clotheslines, air conditioning units, or other fixtures will be permitted to be affixed to the building exterior or otherwise made visible from the building exterior. Satellite dishes and other antennae are allowed only where not visible from the street in areas on the roof specifically designated by the Board. The owner shall be responsible for all wiring and installation costs for its satellite dish(es). (Refer to section 3.7 of the CC&Rs.)

6. No patio or deck covers, wiring, water softeners, or other machines which are not part of the original building construction shall be permitted nor shall they be allowed to protrude through the walls or roofs of the building.



888 7th Street Owners Association

7. Any penetration into any wall, ceiling or floor beyond one-half inch may damage utilities, structural components or acoustical properties of those assemblies. There shall be no wall ceiling or floor penetrations of any type (including picture hangers) of more than one-half inch into the drywall except where otherwise approved by the Board.

8. All exterior and common area painting and caulking is the responsibility of the Association. If paint or caulk requires maintenance or repair, please report it to the Building Manager immediately.

FLOOR COVERING AND ACOUSTICAL RESTRICTIONS

1. All flooring work must comply with the "Noise Insulation Standards" of the California Administrative Code (Title 24), and the Uniform Building Code (UBC) Appendix 35.

2. The Board must approve all hardwood, stone, tile, or other hard surface flooring installations and shall have the right to request acoustical testing at the expense of the owner. Field testing must yield minimum required level of acoustics or better, otherwise, the Owner will be required to implement additional acoustical measures which may include removal and/or reinstallation of the flooring.

3. Prior to installation, the flooring contractor must provide proof that the flooring material selected (wood, tile, marble, etc.) in combination with the underlayment chosen meets or exceeds the above requirements.

4. No unit shall be altered in any manner that would increase sound transmissions, resonances or reverberations to any adjoining or other Unit, including, but not limited to, the mounting or attaching of any audio or video equipment (e.g., speakers, monitors, televisions) to walls, the replacement, modification or penetration of any flooring or floor covering, ceiling or wall that increases sound transmissions, resonances or reverberations to any other Unit except as authorized by the Architectural Committee and in accordance with the provisions of §3.16 of the CC&Rs.

DECKS/PATIOS

1. No items may be stored on patio/s or decks, except:

- Deck/Patio furniture, provided however, that no umbrellas of any height will be permitted without prior approval from the Board; and
- Potted plants in appropriate receptacles. Potted plants shall not be allowed to leak onto balconies or other portions of the building, neighboring units, or the sidewalk below.

2. No shelves or hooks may be attached to the walls, railings, or balconies.

3. Decks and patios may not be used for beating rugs or carpets, shaking dust mops, nor may any article be draped over the railings. No clothesline or other outside clothes drying or airing shall be done on any balcony or in any common area.

4. Decks and patios may not be used as holding areas for pets. No owner shall place or build any doghouse, shed, fence or other structure on a deck or patio.

5. The Decks and patios are exclusive use common areas. No other coating, tile, stone, pavers or any other surface other than that originally provided shall be affixed to any balcony surface. Any damage to this exclusive use common area resulting from the owner's installation of any material to the balcony shall be the responsibility of that owner.



888 7th Street Owners Association

LANDSCAPING

1. The Association employs a landscaping company whose duties are to maintain the landscaping and irrigation sprinklers. No homeowner or resident may make any alterations or improvements to the common areas or remove or modify any common area planting structure, irrigation, or other feature.
2. Any damage, removal or other destruction of landscaping by any owner, resident or invitee shall be the financial responsibility of that owner.

BARBEQUES

1. The use of outdoor barbeque grills is not permitted on the premises. Barbeques may not be stored or used on balconies, patios, or in the courtyards.

COMMUNITY ACTIVITY ROOM

1. The Community Activity Room is for use of residents and their guests only. Be courteous and respectful of the condition in which you leave it.
2. Any equipment and furnishings of the rooms are the property of the Association. Please respect the equipment and furnishings and report any damage, service, or maintenance issues to the Building Manager.
3. Please keep the facilities clean.
4. The Association may allow rental of the Community Activity Room by residents, subject to guidelines issued by the Board.
5. The Association has the right to refuse the use of the room for any use.

BIKE STORAGE ROOM

1. There is no supervision in the bike storage room. All persons using the bike storage room do so at their own risk. The Association Members, Board of Directors, Developer and Association Management Company are not responsible for theft damage, accidents or injuries.
2. The bike storage areas are for the use and enjoyment of the owners and appropriate residents. Guests may use these facilities only at the invitation of, and in the company of, a resident. Each Owner is responsible for any damage or misconduct attributable to their tenants, guests or invitees, both financially and personally. Owners transfer all rights to use the bike storage area when their units are occupied by tenants.

GENERAL RULES AND REGULATIONS (Refer to Article 4, 4.1 in the CC&Rs.)

1. Owner's Responsibility: Owners shall maintain their Units and all Improvements therein in good condition and repair at all times, including, but not limited to, exterior and interior doors and walls (including exterior surfaces of bearing walls located within the Unit), cabinets, floors, appliances, trade fixtures, and all electrical, heating, plumbing and other utility fixtures situated within the Unit or partially within the Unit and partially within the



888 7th Street Owners Association

Common Area and exclusively serving a Unit, such as electrical outlets. Each Owner, at that Owner's cost, shall periodically clean, maintain and repair any exterior door hardware and sidelights.

2. Commercial Units: The Owner of each Commercial Condominium shall be responsible for the periodic cleaning of the windows serving the Commercial Condominium.
3. Common Drainage System: Units have plumbing drainage systems in common. You may be liable for plumbing overflow damages in adjacent units if your unit is the origin of a back-up or flood. To avoid plumbing clogs, do not put potato peels, carrot peels, onion peels, artichokes, asparagus, other fibrous materials, dirt (from container gardening etc.), feminine hygiene products, diapers, or any other similar matter down toilets, plumbing fixture drains or in your garbage disposal.
4. Decks, Patios and Parking Spaces: Although designated for the exclusive use of the owner, are common areas and are not to be altered, painted, enclosed, etc.
5. Destruction of Property: In case of a partial or total destruction of a living unit, the homeowner shall, in such event, reconstruct it in an expeditious manner in accordance with the original plans and specifications or approved modifications thereof. As to the common areas, each homeowner is liable to the Association and shall reimburse it for any expenditure incurred to replace/repair any item damaged by the owner, or by the owner's tenants, guests, or invitees.
6. Bathtub, Jacuzzis or Spas: In order to preserve the structural integrity of the project as a whole, and to facilitate quiet enjoyment by all occupants of the building, the installation of bathtub Jacuzzis or spas is prohibited. Additionally, no hot tubs or similar devices shall be installed within any unit, deck or patio.
7. Waterbeds: Waterbeds and other similarly water-filled furniture are not allowed in any unit.
8. Loitering: The hallways and entry are designed for use by those residents who live in each individual building. Please do not allow anyone to play in hallways or wander around the building unescorted. If you see anyone in your entryway who does not belong, please contact the Building Manager or the local Police Department immediately.
9. Solicitation: No advertising, pamphlets, or other printed solicitations of any kind shall be permitted to be distributed in the common areas, to residents' homes, in entranceways, halls, or other property locations, except as approved by the Board. No soliciting, peddling or door-to-door canvassing of any nature whatsoever shall be permitted in the buildings or at any place around the property. Delivery of paid newspaper subscriptions and Association material is permitted.
10. Postings: Posting of signs/notices is permitted only at designated bulletin board locations. Postings must identify the name and unit number of the poster and an expiration date. No obscene, political, religious, or offensive material shall be posted. Please post items in a neat and orderly manner. The Building Manager will regularly dispose of expired or anonymously posted items.
11. Violations: In case of continued or flagrant violations of the CC&Rs or these Rules & Regulations, the Board may impose monetary penalties, suspend use of facilities and/or seek legal remedies in court at the Owner's expense.

ENFORCEMENT POLICY



888 7th Street Owners Association

The following fining and discipline policy and rules have been adopted for the enforcement of the Association's Governing Documents including, but not limited to, the Association Covenants, Conditions and Restrictions, (CC&Rs), Bylaws and Design Guidelines.

1. First Offense/Nuisance

A notice of violation/non-compliance will be mailed to the Owner(s) of the non-complying unit describing the violation/noncompliance and, if the violation/noncompliance is continuing, requesting that the violation/non-compliance be corrected within a specific time.

2. Uncorrected Violations

Any violation and/or non-compliance not corrected within the deadline set forth in the Association's notice to the Owner will be considered an uncorrected violation.

3. Repeat Offenses

If within a twelve (12) month period following the Association's determination and notice of first offense, the same Owner(s) are determined by the Association to be in non-compliance and/or violation of the same provision of the Association's governing documents, the Association has the right and ability to treat the violation/non-compliance as a continuation of the previous violation (hereinafter "repeat offense").

FINE SCHEDULE

1. SINGLE EVENT OR NUISANCE: Non Health, Life, or Property Threatening
(*Noisy party, parking violation, pet droppings in common area*)

Fine: \$25 to \$50

2. SINGLE EVENT OR NUISANCE: Health, Life, or Property Threatening
(*Parking in the fire lane, flooding from faulty fixture, major vehicle repairs*)

Fine: \$175 to \$250

3. RECURRING EVENT OR NUISANCE: Health, Life, or Property Threatening
(*Continued violation after contact by the Association*)

Fine: \$175-250, plus any amount calculated to reasonably compensate the Association for any nuisance, loss, damage, or improper use of Association common areas or other areas for which the Association bears maintenance or repair responsibility in an amount calculated to reasonably compensate the Association for such nuisance, loss, damage, or improper usage until the Association is fully compensated or the nuisance or improper usage is abated.

ADDITIONAL ENFORCEMENT ACTION

1. Prior to commencing any litigation to enforce the rules or governing documents, other than issues involving assessments, either the homeowner or the Association shall request an Alternative to Dispute Resolution in the form of either Arbitration or Mediation. The text of Alternative Dispute Resolution Statute, Civil Code Section 5930 reads in part as follows: "An association or a member may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article." Please note the following:



888 7th Street Owners Association

"Failure by any member of the association to comply with the prefiling requirements of Section 5930 of the Civil Code may result in the loss of your rights to sue the association or another member of the association regarding enforcement of the governing documents."

2. Commence litigation to enforce the CC&Rs. State Statute 5975: The covenants and restrictions in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be enforced by an owner of a separate interest or by the Association or by both. In any action to enforce the declaration, the prevailing party shall be awarded reasonable attorney fees and costs.

- END -