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*(Revised)*  
**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
SONOMA GREENS COMMUNITY ASSOCIATION**

**SONOMA GREENS COMMUNITY  
ASSOCIATION**

**(REVISED) AMENDED AND  
RESTATED DECLARATION**

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**(Revised) AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
SONOMA GREENS COMMUNITY ASSOCIATION**

This *(Revised)* Amended and Restated Declaration of Covenants, Conditions and Restrictions is made on the date set forth at the end of this document by SONOMA GREENS COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation (referred to in this document as the "Association").

**RECITALS OF BACKGROUND FACTS; DECLARATIONS**

- A. This *(REVISED)* AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SONOMA GREENS COMMUNITY ASSOCIATION is made with reference to that certain AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SONOMA GREENS COMMUNITY ASSOCIATION recorded on September 12, 2014 as Instrument No. 2014064249, Official Records of Sonoma County, State of California (referred to in this document as the "2014 Declaration").
- B. The 2014 Declaration, at Article 7, ("Renting or Leasing"), Section 7.2 ("Limitation on the Number of Permitted Rentals") restated and preserved a restriction on the renting or leasing of Lots within the Development, which was adopted by the Association on December 22, 1992. This *(REVISED)* AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SONOMA GREENS COMMUNITY ASSOCIATION preserves that 1992 restriction as provided for herein at Article 7 ("Renting or Leasing"), Section 7.2 ("Limitation on the Number of Permitted Rentals").
- C. In addition to those restrictions enumerated in Recital Paragraph B above, the 2014 Declaration establishes certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with, and are binding upon all parties having or acquiring any right, title, or interest in, that certain real property located in the County of Sonoma, State of California, and more particularly described as set forth in Exhibit A.
- D. THE MEMBERS, constituting at least sixty-seven percent (67%) of the Members of the Association, adopted the 2014 Declaration. The 2014 Declaration was recorded without a copy of Exhibit B ("Use Agreement") attached thereto. A true and correct copy of the Use Agreement is attached to this *(Revised)* Amended

and Restated Declaration of Covenants, Conditions and Restrictions as Exhibit B.

- E. To accurately reflect the intention of the Members this (*REVISED*) AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SONOMA GREENS COMMUNITY ASSOCIATION (referred to herein as the "2015 Declaration") is HEREBY RECORDED to supersede and replace the 2014 Declaration, and the 2014 Declaration is HEREBY AMENDED AND RESATETD IN ITS ENTIRETY, as set forth in this 2015 Declaration.
- F. IT IS FURTHER HEREBY DECLARED that all of the real property described in Exhibit A constitutes a planned development within the meaning of Section 4175 of the California *Civil Code*.
- G. IT IS FURTHER HEREBY DECLARED that all of the real property described in Exhibit A is and shall be held, owned, operated, managed, conveyed, hypothecated, encumbered, leased, used, occupied, and improved subject to the following covenants, conditions, and restrictions set forth herein, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the said real property and every part thereof, and of fostering the development, management, improvement, enjoyment, and sale of the said real property and any part thereof.
- H. IT IS FURTHER HEREBY DECLARED that all of the covenants, conditions, and restrictions set forth herein shall constitute enforceable equitable servitudes as provided in *Civil Code* section 5975, shall constitute covenants that shall run with the said real property, and shall be binding upon and inure to the benefit of each Owner of any portion of the said real property or the owner or holder of any interest or estate therein and their heirs, successors, and assigns.

## ARTICLE 1            DEFINITIONS

---

- 1.1 Additional Charges. "Additional Charges" shall mean all costs, fees, charges, and expenditures including, but not limited to, interest, late charges, attorneys' fees, recording and filing fees, and all other costs actually incurred by the Association in collecting and/or enforcing payment of Assessments.
- 1.2 Annual Assessments. "Annual Assessments" shall have the meaning set forth in Section 9.7.
- 1.3 Articles. "Articles" shall mean the Amended and Restated Articles of Incorporation of Sonoma Greens Community Association, as they may be

amended from time to time, and as filed with the Office of the Secretary of State of California.

- 1.4 Assessments. "Assessments" shall mean any or all of the following: Annual Assessments, Special Assessments, Reimbursement Assessments, and Enforcement Assessments.
- 1.5 Association. "Association" shall mean Sonoma Greens Community Association, a California nonprofit mutual benefit corporation, its successors and assigns.
- 1.6 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Association.
- 1.7 Bylaws. "Bylaws" shall mean the Amended Bylaws of the Association as they shall be duly adopted by the Board of Directors and the Members and any duly-adopted amendments thereof.
- 1.8 Civil Code. "*Civil Code*" shall mean the California *Civil Code* as amended from time to time.
- 1.9 Common Area. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and Residents of the Development. The Common Area comprises all the plots designated by capital letters as shown upon any of the Subdivision Maps, as enumerated in Exhibit A. The Common Area comprises, generally, all of the property outside the foundation and patio of each Lot.
- 1.10 Contract Purchaser / Contract Seller. "Contract Purchaser" and "Contract Seller" shall mean the purchaser and the seller, respectively, under an installment land contract in which title to the property is transferred after the final installment payment is made.
- 1.11 Corporations Code. "*Corporations Code*" shall mean the California *Corporations Code* as amended from time to time.
- 1.12 County. "County" shall mean the County of Sonoma.
- 1.13 Declaration. "Declaration" shall mean this (*Revised*) Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sonoma Greens Community Association, recorded in the Office of the County Recorder of Sonoma County, California, and any duly recorded amendments thereof.
- 1.14 Development. "Development" shall mean all the real property described in this Declaration comprising the Sonoma Greens Community Association planned development and any additional real property as may hereafter be brought within the jurisdiction of the Association.

- 1.15 Dwelling. "Dwelling" shall mean a structure designed for human residential use and occupancy which is located upon a Lot. The term "Dwelling" shall include all accessory structures and improvements serving the primary residential structure.
- 1.16 Eligible Holder. See Section 14.3 ("Eligible Holder Defined").
- 1.17 Enforcement Assessment. "Enforcement Assessments" shall have the meaning set forth in Section 9.11.
- 1.18 First Mortgage / First Mortgagee. "First Mortgage" shall mean a Mortgage that has first priority over all other Mortgages. "First Mortgagee" shall mean the beneficiary under a First Mortgage.
- 1.19 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws, Declaration, and Rules.
- 1.20 Individual Delivery / Individual Notice. "Individual Delivery" or "Individual Notice" shall mean delivery to a Member or Members by one (1) of the following methods, as provided in *Civil Code* section 4040:
- (a) by first class mail with postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier, addressed to the recipient at such recipient's address last shown on the books of the Association, or
  - (b) by email, facsimile, or other electronic means if the recipient has consented in writing to that method of delivery. The consent may be revoked, in writing, by the recipient. Delivery by electronic transmission must also comply with *Corporations Code* sections 20 and 21. Among other things, Section 20 of the *Corporations Code* requires the Association to obtain consent from the person to whom the document is transmitted to receive it by means of electronic transmission as well as other technical requirements.
- 1.21 Institutional Mortgagee. See Section 14.2 ("Institutional Mortgagee Defined").
- 1.22 Lot. "Lot" shall mean any of the plots of land designated by Arabic numbers as shown upon any of the Subdivision Maps as enumerated in Exhibit A. There are one hundred fifty (150) Lots in the Development.
- 1.23 Maintenance. "Maintenance" or to "maintain" (whether the term is capitalized or not) shall mean the act of caring for property and keeping it in its existing state, preserving it from failure or deterioration, including painting, caulking, cleaning, and minor, non-structural upkeep. In the case of landscaping, "maintenance" or to "maintain" shall mean regular fertilizing, irrigation, pruning, and other garden

management practices necessary to promote healthy plant growth free of weeds or dead or dying plants.

- 1.24 Member. "Member" shall mean an Owner.
- 1.25 Member in Good Standing. "Member in Good Standing" shall mean a Member of the Association who is current in the payment of all Assessments and Additional Charges imposed in accordance with the Governing Documents, and who is in compliance with all of the provisions of the Governing Documents. A Member shall be deemed to be in Good Standing unless, after notice and an opportunity for hearing, pursuant to Article 15 ("Enforcement; Notice; Hearings"), the Board has found the Member to be not in Good Standing and has so notified the Member in accordance with *Civil Code* section 5855.
- 1.26 Mortgage. "Mortgage" shall mean a duly recorded deed of trust or mortgage in the conventional sense encumbering a Lot.
- 1.27 Mortgagee. "Mortgagee" shall mean a beneficiary under a Mortgage.
- 1.28 Owner. "Owner" shall mean the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, including Contract Sellers but excluding Contract Purchasers, and excluding those persons having such interest merely as security for the performance of an obligation.
- 1.29 Party Fence. See Section 11.1 ("Party Wall and Party Fence Defined").
- 1.30 Party Wall. See Section 11.1 ("Party Wall and Party Fence Defined").
- 1.31 Reimbursement Assessment. "Reimbursement Assessments" shall have the meaning set forth in Section 9.10.
- 1.32 Repair. "Repair" (whether the term is capitalized or not) shall mean the minor restoration of property that is torn, broken, or otherwise damaged, or has sustained wear, tear, or deterioration such that minor restoration is necessary.
- 1.33 Replacement. "Replacement" or to "replace" (whether the term is capitalized or not) shall mean substantial reconstruction, restoration, or substitution of the whole or a substantial part of property that has deteriorated or has been damaged or destroyed through usage or through hazard or catastrophe such that it is no longer useable or serviceable in its current condition. In the case of landscaping, "replacement" or to "replace" shall mean the removal and replanting of trees, shrubs, lawns, and other plants that are dead or dying or otherwise not serviceable or the substitution of plants for hardscape or substitution of hardscape for plants.



- 1.34 Resident. "Resident" shall mean any person who resides on a Lot within the Development whether or not such person is an Owner.
- 1.35 Rules. "Rules" shall mean the policies, rules, and regulations governing the administration, management, operation, use, and occupancy of the Development, including the use of the Common Area and facilities, the personal conduct of Owners and Residents, members of their household, pets, tenants, invitees, and guests within the Development, enforcement of the Governing Documents, and any other matter that is within the jurisdiction of the Association, as adopted, published, or amended by the Board from time to time and subject to applicable law including *Civil Code* section 4340 and following.
- 1.36 Special Assessment. "Special Assessments" shall have the meaning set forth in Section 9.8.
- 1.37 Subdivision Map. "Subdivision Map" shall mean any of those certain maps listed in Exhibit A.
- 1.38 Total Voting Power. "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one (1) vote for each Lot, excluding any Lots as to which an Owner is not then a Member in Good Standing.

## **ARTICLE 2                      HOMEOWNERS ASSOCIATION**

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- 2.1 Management and Operation; Bylaws. The Association is an "association" as defined in *Civil Code* section 4080 and as such shall have the power and the authority to manage and operate the Development in accordance with the Governing Documents and the provisions of applicable law. The Association shall have all of the powers set forth in the Governing Documents together with general power to do any and all things that a nonprofit mutual benefit corporation may lawfully do under the laws of the State of California, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. Provisions concerning the operation of the Association as a nonprofit mutual benefit corporation are set forth in the Bylaws.
- 2.2 Legal Standing. To the fullest extent permitted by law, including *Civil Code* section 5980, the Association shall have standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as a real party in interest, and without joining with it the Owners, in matters pertaining to the following:

- (a) Enforcement of the Governing Documents,
  - (b) Damage to the Common Area,
  - (c) Damage to the separate interests that the Association is obligated to maintain, repair, or replace,
  - (d) Damage to a separate interest that arises out of, or is integrally related to, damage to the Common Area or separate interests that the Association is obligated to maintain, repair, or replace.
- 2.3 Membership. Every Owner of a Lot shall be a Member of the Association and shall remain a Member thereof until such time as his or her ownership of such Lot ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a Lot and shall not be transferred, encumbered, pledged, alienated, or otherwise hypothecated in any way, except in connection with the sale or encumbrance of the Lot to which it is appurtenant.
- 2.4 Voting. Only Members in Good Standing shall be entitled to vote and only one (1) vote shall be cast for each Lot, as more particularly set forth in the Bylaws.
- 2.5 Association Rules. Subject to applicable law including *Civil Code* section 4340 and following, regarding notice and procedures, the Board shall have the power and the authority to establish, promulgate, amend, repeal, and enforce Rules.

## **ARTICLE 3                      RELATIONSHIP WITH SONOMA GREENS CONDOMINIUM ASSOCIATION**

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- 3.1 Condominium Association Neighbor. The Sonoma Greens Condominium Association is a separate corporation and is a homeowners association for a 36-unit condominium project situated upon the following real property in Sonoma County:
- Lot 1 as shown on the map entitled "Tract No. 869, Map of Sonoma Greens, Unit 6," filed for record on August 7, 1990, in Book 462 of Maps at Pages 27 & 28, in the Records of the County Recorder of Sonoma County, California.
- 3.2 Condominium Association Easement Rights. The members of the Sonoma Greens Condominium Association have non-exclusive rights and easements of use and enjoyment in and to the Common Area of the Development to the same extent as Lot Owners as set forth in Section 5.6 ("Owners' Non-Exclusive Easements of Enjoyment"), which rights and easements are appurtenant to and shall pass with title to every condominium within the Condominium Association

property, subject to the same limitation as Owners, including the right of the Association to suspend a condominium owner's right to use the recreational facilities pursuant to Article 15 ("Enforcement; Notice; Hearings").

- 3.3 Use of Common Area Amenities. The relationship between the Association, the Sonoma Greens Condominium Association, and the residents of the Condominium Association with respect to use of amenities upon the Common Area of the Development is as set forth in Exhibit B ("Use Agreement"), attached hereto and incorporated herein by this reference.

## **ARTICLE 4                      PROPERTY SUBJECT TO THIS DECLARATION**

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- 4.1 Legal Description. The property subject to this Declaration and to the jurisdiction of the Association is described in Exhibit A.

- 4.2 Classification of Property. The property subject to this Declaration is a planned development. All of the property subject to the Declaration is divided into the following categories:

- (a) Common Area, and
- (b) Lots.

- 4.3 Partition of the Common Area. There shall be no subdivision or partition of the Common Area, nor shall any Owner seek any partition or subdivision of the Common Area. Notwithstanding any provision to the contrary contained in this Declaration and in order to provide for a means of terminating the Development if this should become necessary or desirable upon the occurrence of any of the conditions presently set forth in California *Civil Code* section 4610 or as such conditions in the future may be set forth in any amendment thereto or comparable provision of law, two-thirds (2/3) of the Owners of Lots shall have the right to petition the Superior Court having jurisdiction to alter or vacate the Map under Government Code section 66499.21 et seq., or any comparable provisions of law, and to vest title to the Common Area in the Owners as tenants in common and order an equitable partition of the Common Area in accordance with the laws of the State of California. The foregoing shall not be deemed to prohibit the termination of the Declaration upon the expiration of its term. If any Lot shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing contained in this Declaration shall be deemed to prevent a judicial partition by sale as between such co-tenants.

- 4.4 Annexation. No property shall be annexed to the Development without prior approval of a majority of the Total Voting Power of the Association as to the principal terms of such annexation, including the principal terms of any merger of the Association with one (1) or more other entities incident to such annexation.

- 4.5 Mortgage or Pledge Association Real Property. Upon approval of a majority of the Total Voting Power of the Association, the Board acting on behalf of the Association shall have the power and authority to sell, transfer, mortgage, pledge, encumber, or otherwise hypothecate the Common Area and facilities thereon as security for money borrowed by the Association.

## **ARTICLE 5           COMMON AREA AND EASEMENTS**

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- 5.1 Delegation of Use of Common Area. Any Owner may delegate his or her rights of use and enjoyment, including easements, in the Development to the members of his or her household, tenants, Contract Purchasers, and guests, subject to the terms of the Governing Documents. Upon the leasing or renting of a Lot, or upon occupancy of a Lot by a Contract Purchaser, the Owner shall be deemed to have delegated and assigned all such rights exclusively to the tenants or Contract Purchasers of such Lot. Any rights of enjoyment that have been delegated by an Owner are subject to suspension to the same extent that rights of Owners are subject to suspension as provided in the Governing Documents.
- 5.2 Notice Regarding Household Members, Tenants, or Contract Purchasers. Each Owner shall notify the Board or the Association's manager of the names of any tenants or any Contract Purchasers occupying such Owner's Lot. If requested by the Board, each Owner, tenant, or Contract Purchaser shall also notify the Board or the Association's manager of the names of all members of his or her household to whom such Owner, tenant, or Contract Purchaser has delegated any rights of enjoyment in the Development as provided herein and the relationship each such person bears to such Owner, tenant, or Contract Purchaser.
- 5.3 Common Area Construction or Alteration. Except as may be authorized by the Board, no person or entity other than the Association or its duly-authorized agents shall construct, reconstruct, refinish, alter, or maintain any improvement upon the Common Area, or shall make or create any excavation or fill upon the Common Area, or shall change the natural or existing drainage of the Common Area, or shall plant, remove, or destroy any seed, plant material, tree, shrub, or other vegetation upon the Common Area.
- 5.4 Mechanic's Lien against Common Area. In the event there shall be filed against the Common Area a notice of mechanic's lien for, or purporting to be for, labor or materials alleged to have been furnished or delivered for any Owner within the Development or his or her Lot, such Owner shall forthwith cause such lien to be discharged by payment, bond, or otherwise. If the Owner fails to cause the lien to be discharged, the Board may send written notice to the Owner specifying that unless the Owner causes the lien to be discharged within five (5) days from the date of such notice, the Board may cause the lien to be discharged. Within such

five (5) day period, and notwithstanding any other provisions of the Governing Documents concerning notice or hearing, the Owner shall be permitted a hearing before the Board regarding the validity of such lien and any offsets or defenses thereto. At that time, the Board shall determine whether the lien adversely and improperly affects and encumbers the rights and interests of the Association or the other Owners. If the Board of Directors determines that the lien does adversely and improperly affect and encumber such rights and interests and that adequate protection of such rights and interests has not been provided, the Board may cause the lien to be discharged by payment, bond, or otherwise. The Board shall have the right to levy a Reimbursement Assessment against the Owner responsible for causing the lien to be discharged in an amount equal to all amounts paid by the Association together with interest thereon at the legal rate and all costs and expenses paid or incurred in connection therewith, including reasonable attorneys' fees.

- 5.5 Easements in General. In addition to all easements reserved and granted on the Subdivision Map(s), there are hereby specifically reserved and granted for the benefit of the Lots and Lot Owners in common and for each Lot and Lot Owner severally, and for the Association, as their respective interests shall obtain, the easements, reciprocal negative easements, secondary easements, and rights of way as particularly identified in this Article 5.
- 5.6 Owners' Non-Exclusive Easements of Enjoyment. Every Owner of a Lot shall have a non-exclusive easement of use of and enjoyment in, to, and throughout the Common Area of the Development. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Lot, subject to the following rights and restrictions:
- (a) The right of the Board to establish and enforce Rules governing the use of the Common Area and facilities thereon;
  - (b) The right of the Board to charge reasonable admission and other fees for the use of any facilities situated upon the Common Area;
  - (c) The right of the Board to suspend an Owner's right to use the recreational facilities as provided in Section 15.8 ("Imposing Sanctions");
  - (d) The right of the Board, as set forth in Section 4.5 ("Mortgage or Pledge Association Real Property"), to mortgage, pledge, encumber, or otherwise hypothecate the Common Area and facilities thereon as security for money borrowed by the Association;
  - (e) The right of the Board, as set forth in Section 5.10 ("Utility Easements"), to grant and transfer utility easements and rights of way in, on, over, or under the Common Area subject to such conditions as may be agreed to by the Board;

- (f) The right of the Board, as set forth in Section 5.11 ("Board Power to Grant Easements and Licenses to Owners"), to grant to Owners easements, licenses, and rights of way upon the Common Area; and
- (g) The right of the Association or its authorized agents, as provided in this Declaration, to perform its obligations under this Declaration, including obligations with respect to construction, maintenance, repair, or replacement for the benefit of the Common Area or the Owners in common.

5.7 Condominium Association Easement Rights. The members of the Sonoma Greens Condominium Association have non-exclusive rights and easements of use and enjoyment in and to the Common Area, which rights and easements are appurtenant to and shall pass with title to every condominium within the Condominium Association property, subject to the same limitation as Owners, including the right of the Association to suspend a condominium owner's right to use the recreational facilities pursuant to Article 15 ("Enforcement; Notice; Hearings").

5.8 Easements for Maintenance and Support Including Party Walls. There is reserved and granted a non-exclusive easement appurtenant to the Common Area and each Lot as dominant tenements, through each other Lot and the Common Area as servient tenements, for the support, maintenance, and repair of the Common Area and all Lots, including but not limited to maintenance of Party Walls and Party Fences.

5.9 Association's Easements. There is reserved to the Association and its duly authorized agents and representatives such easements as are necessary to perform the obligations and duties of the Association.

5.10 Utility Easements. There are reserved and there shall exist easements over and under the Development or any portion thereof for the purpose of constructing, erecting, operating, or maintaining thereon, therein, or thereunder overhead or underground lines, cables, wires, conduits, or other devices for electricity, power, cable television, telephone, internet and other similar 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 (including any such installed by a private company), and for any other purposes deemed by the Board to be appropriate and not inconsistent with the purposes and interests of the Association, together with the right to grant and transfer the same and each purchaser, in accepting a deed to a Lot, expressly consents thereto; *provided, however*, that no such easement or right of way may be granted or transferred if it would unreasonably interfere with the use, occupancy, or enjoyment by an Owner or Resident of any Lot and any existing

exclusive easements over Common Area appurtenant thereto, if any, without the consent of the Owner(s) affected.

- 5.11 Board Power to Grant Easements and Licenses to Owners. Notwithstanding any other provisions of the Governing Documents, the Board shall have the power in its discretion without approval vote of the Members to grant and convey licenses for use, rights of way, and nonexclusive easements in, over, or under the Common Area or any portion thereof to Owners, for such purposes as the Board deems to be appropriate and not inconsistent with the purposes and interests of the Association; *provided, however*, that approval of a majority of the Total Voting Power of the Association shall be required to grant an exclusive easement over Common Area to any Owner, other than any grant or conveyance to an Owner described in *Civil Code* section 4600(b).

## **ARTICLE 6            USE RESTRICTIONS**

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- 6.1 Residential Use. Except to the extent permitted in Section 6.3 ("Restriction on Businesses"), Lots shall be occupied and used only for single family residential purposes in conformity with the requirements of applicable zoning laws or other state or local rules or regulations.
- 6.2 No Public Rights. There shall be no entitlement to public use of, access to, or other public rights in, the Project property. The Association reserves the rights to prohibit entry on the Project property by any person whose presence is not authorized by the Governing Documents.
- 6.3 Restriction on Businesses.
- 6.3.1 Types of Businesses Allowed. No business of any kind shall be established, maintained, operated, permitted, or conducted within the Development except: (i) such professional and administrative occupations as may be permitted by applicable governmental ordinances without the requirement of a conditional use permit but only if such activity does not entail the presence of employees, patrons, clients, or vendors; there is no external evidence of such activity including but not limited to a significant increase in traffic within the Development; the activity complies with all applicable governmental ordinances; and the activity is merely incidental to the use of the Lot for residential purposes and (ii) certain care facilities that, by law, the Declaration cannot be prohibited within the Development, including family day care homes and residential care facilities as provided in Section 6.4 ("Family Day Care Homes") and Section 6.5 ("Residential Care Facilities").



- 6.3.2 Indemnification Regarding Business Activity. To the fullest extent permitted by law, every Owner or Resident who conducts or engages in any business, commercial endeavor, or profession within the Development, or whose tenant does so, agrees to and shall indemnify and defend the Association, its officers, directors, employees, and agents and shall hold them harmless from and against any cost, loss, claim, or damages of any kind, arising out of the conduct or presence of such activity, including but not limited to attorneys' fees, any claims for consequential damages, and any claims arising or alleged to arise out of the enforcement or nonenforcement by the Association of the Governing Documents, including but not limited to the restriction on business contained in this Section 6.3. Any amounts owed pursuant to this Section 6.3.2 may be assessed as a Reimbursement Assessment.
- 6.4 Family Day Care Homes. No family day care home for children shall be permitted within the Development except as specifically authorized by California *Health and Safety Code* section 1597.40 and other applicable state statutes. The owner/operator of any permitted family day care home shall provide the Association with prior written notice as to its operation, and comply with all local and state laws regarding the licensing and operation of a day care home and, in addition, shall:
- (a) Name the Association as an additional insured on the liability insurance policy or bond carried by the owner/operator of the day care home, as provided under *Health and Safety Code* section 1597.531. This Paragraph (a) of Section 6.4 is intended to be and shall be conclusively deemed to be the written notice to the operator or owner from the Association as specified in *Health and Safety Code* section 1597.231;
  - (b) Be subject to the provisions of Section 6.3.2 ("Indemnification Regarding Business Activity");
  - (c) Abide by and comply with all of the Association's Rules;
  - (d) Supervise and be completely responsible at all times for children for whom day care services are provided while they are within the Development; and
  - (e) Cooperate with the Association if the Association's insurance agent or carrier requires proof of insurance, proof of the agreement of the owner or operator of the home to these conditions, or other reasonable requests.
- 6.5 Residential Care Facilities. Except for residential facilities serving six (6) or fewer persons and permitted in accordance with California *Health & Safety Code* sections 1566.3 and 1569.85 and other applicable state statutes, no health care facilities operating as a business or charity and serving the sick, elderly, disabled, handicapped, or retarded shall be permitted in the Development. The



owner/operator of any permitted residential care facility shall comply with all local and state laws regarding the licensing and operating of such facility, and, in addition, to the extent permitted by applicable laws, shall:

- (a) Name the Association as an additional insured on the liability insurance policy or bond carried by the owner/operator of such residential care facility;
- (b) Be subject to the provisions of Section 6.3.2 ("Indemnification Regarding Business Activity");
- (c) Abide by and comply with all of the Association's Rules as applied to Lots in the Development in a general manner;
- (d) Supervise and be completely responsible for occupants of such residential facility at all times while they are within the Development; and
- (e) Cooperate with the Association if the Association's insurance agent or carrier requires proof of insurance, proof of the agreement of the owner or operator of such residential care facility to these conditions, or other reasonable requests.

6.6 Unlawful Conduct, Nuisances, Noise. No unlawful, noxious, harmful, or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done within the Development which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Resident of the Development, or which shall in any way interfere with Residents' use of the Common Area and facilities thereon or the use and enjoyment of their Lots or Dwellings. Without limiting any of the foregoing, no Resident shall permit noise, including but not limited to the barking of dogs, to emanate from the Resident's Lot that would unreasonably disturb another Resident's enjoyment of his or her Lot or of the Common Area. Each Owner and Resident shall comply with all requirements of all federal, state, and local governmental authorities and all laws, ordinances, rules and regulations applicable to his or her Lot and Dwelling.

6.7 Use of Common Area; No Obstruction. All use of Common Area is subject to the Governing Documents. Without limiting the generality of the foregoing, no alterations or additions to the Common Area shall be permitted without the prior written approval of the Board; nothing shall be altered, constructed, placed, kept, stored, parked, planted on, or removed from the Common Area without the prior written consent of the Board; and the Common Area shall be kept free of rubbish, debris, and other unsightly or unsanitary materials. There shall be no obstruction of any part of the Common Area. Each Owner shall avoid causing any damage to the Common Area.

- 6.8 Conditions Affecting Insurance. Nothing shall be done, placed, or kept within the Development that will increase the rate of insurance or result in the cancellation of insurance under any insurance policy maintained by the Association, or which will be in violation of any governmental statute, ordinance, rule, or regulation. If any Owner or Resident, member of their household, tenant, invitee, or guest shall violate this Section 6.8, the Lot Owner shall be liable to the Association for any resulting increase in insurance premiums and any other damages.
- 6.9 Requirement of Architectural Approval. As addressed in Article 8 ("Architectural Approval"), construction, installation, modification, or alteration of buildings, outdoor structures, landscaping, and outdoor lighting are subject to prior architectural approval.
- 6.10 Animals.
- 6.10.1 No Commercial Purposes. No animals shall be kept, bred, or maintained within the Development for any commercial purpose.
- 6.10.2 Number of Pets. Each Lot Owner may keep two (2) dogs, cats, or other customarily uncaged household pets and a reasonable number of other small caged common domestic household pets or animals in an aquarium within his or her Lot.
- 6.10.3 Control of Pets. While outside the Dwelling each dog must be restrained on a leash held by a responsible person capable of controlling it.
- 6.10.4 No Feeding of Non-Domestic Animals; Not Outside Food. There shall be no feeding of non-domestic animals within the Development. In order to control feral cats, vermin, and other stray animals within the Development, no animal food shall be kept or placed outside anywhere within the Development, except for approved bird feeders. Pet feeding stations may not be kept in a garage if the garage door is left open permitting animals to access the feeding station.
- 6.10.5 Responsibility for Pets. The owner of each pet shall be responsible for immediately removing and disposing of any waste introduced to any portion of the Development by such pet.
- 6.10.6 Indemnification Regarding Pets. Each Owner, Resident, and any person bringing or keeping an animal within the Development shall be absolutely liable to the Association and all other persons for any injury or damage to persons or property caused by the animal brought upon or kept upon the Development by such person or by members of his or her household, tenants, invitees, or guests. To the fullest extent permitted by law, each Owner agrees to and shall indemnify and

defend the Association, its officers, directors, employees, and agents and shall hold them harmless from and against any cost, loss, claim, or damages of any kind, arising out of or resulting from the presence or conduct of any animal brought upon or kept within the Development by the Owner, members of his or her household, tenants, invitees, or guests including but not limited to attorneys' fees, any claims for consequential damages, and any claims arising or alleged to arise out of the enforcement or nonenforcement by the Association of the Governing Documents, including but not limited to the restrictions on animals contained in this Section 6.10. Any amounts owed pursuant to this Section 6.10.6 may be assessed as a Reimbursement Assessment.

- 6.10.7 Pet Rules. The Board may adopt and enforce pet Rules in addition to the provisions of this Section 6.10. The Association shall have the right to prohibit the keeping of any animal which, after the responsible Owner or Resident has an opportunity for a hearing called by the Board pursuant to Section 15.12 ("Hearing Called by the Board; Executive Session; Open Meeting"), is found by the Board to be a nuisance.
- 6.11 Trash Disposal. Trash, garbage, accumulated waste plant material, other waste and refuse, and recyclable waste shall be deposited only in garbage and recycling containers provided for that purpose by the garbage collection service. Such containers shall be stored in the garage of each Lot and shall be placed outside only on the scheduled weekly collection day. Garbage and recycling containers shall not be stored on decks or patios or anywhere in the Common Area. No Owner or Resident shall permit or cause any garbage, trash, or other waste or refuse to be kept upon any portion of any Lot or elsewhere in the Development, except in such containers.
- 6.12 Machinery and Equipment. Except as approved by the Board, no machinery or equipment of any kind shall be maintained or operated upon a Lot except (i) as is customary and necessary in connection with approved construction or maintenance of improvements upon the Lot, (ii) small hand-held tools or machines, (iii) common household gardening equipment used for maintaining landscaping upon a Lot, such as lawnmowers and hedge trimmers, (iv) machines located inside a garage and used only when the garage door is closed. Notwithstanding the foregoing, as provided in Section 6.15 ("Garages"), garages shall not be used for any purpose that will interfere with the parking of vehicles.
- 6.13 Signs, Banners, Flags. Only the following types of signs, posters, banners, or flags shall be displayed to the public view from any portion of the Development:

- (a) Signs required by legal proceedings;
- (b) Noncommercial signs or posters no larger than nine (9) square feet in size and noncommercial flags or banners no larger than fifteen (15) square feet in size, displayed upon a Lot or Dwelling, and limited to the fullest extent permitted by *Civil Code* section 4710;
- (c) A single sign of customary and reasonable dimension and design, complying with the provisions of any applicable ordinance and the Architectural Rules, if any, and reasonably located on a Lot advertising a Lot for sale or rent;
- (d) Other signs which by law cannot be prohibited;
- (e) A flag of the United States, subject to any city or county restrictions as to size and as to time, place, and manner of display, as provided in *Civil Code* section 4705;
- (f) A single identification sign complying with the Rules or which has been approved by the Board located on a Lot identifying the number or address of the Lot and/or the names of the occupants;
- (g) Signs approved by the Board as required for traffic control and regulation of streets or open areas within the Development; and
- (h) Signs on the Common Area as approved by the Board for a purpose reasonably related to the affairs of the Association, including signs located at or near any entrance to the Development identifying the Development.

No sign or display shall be permitted to become a visual blight or nuisance, such as through weather-related or other deterioration. No sign or display shall be attached by nails, screws, or any other device that penetrates the siding, roof, or any other exterior surface of a Dwelling for which surface the Association is obligated to provide maintenance, repair, or replacement as provided in the Declaration.

#### 6.14 Vehicles and Parking.

- 6.14.1 Vehicle and Parking Rules. To promote and preserve the safety, appearance, and value of the Development, Owners and Residents shall park, store, and keep vehicles in accordance with applicable Rules as they may be amended from time to time. Such Rules may include provisions concerning parking limitations or restrictions as to time and location, types of vehicles, auto alarms and other vehicle

noise, and any other matters concerning vehicles and parking within the Development.

- 6.14.2 Parking. The primary parking facility for Residents of each Lot is the garage of the Dwelling. Each garage shall be used for parking the vehicles of the Residents of the Dwelling and shall not be used for any other purpose that interferes with the ability to park the number of vehicles the garage was designed to accommodate unless the number of vehicles of all Residents of the Dwelling is less than the number the garage was designed to accommodate. Vehicles shall not be parked anywhere within the Development except (i) wholly within a garage, (ii) upon the driveway of a Lot, (iii) in a designated Common Area parking spaces (parking "cut-outs" in the private street or designated parking spaces between the Lots. No vehicle shall be parked continuously in the private streets for longer than seventy-two (72) hours. Parking is not allowed at any time in designated fire lanes. Vehicles that are parked outside must be maintained in such a condition that they do not create a visual blight or nuisance.
- 6.14.3 Prohibited Vehicles. Commercial vehicles (such as dump trucks, flatbed trucks, oil or gas trucks, etc.), recreational vehicles (such as camper units, motor homes, trailers, boat trailers, mobile homes or similar vehicles), golf cart, boats or any other vehicle other than a private passenger vehicle shall not be parked, kept, or stored anywhere in the Development. Unreasonably noisy vehicles and vehicles that emit foul-smelling or offensive exhaust fumes, as determined by the Board, shall not be permitted within the Development at any time.
- 6.14.4 Vehicle Repairs. No motor vehicle, boat, trailer, or other vehicle shall be constructed, reconstructed, or repaired within the Development (other than minor emergency repairs to the extent necessary to move the vehicle to a repair facility).
- 6.14.5 Parking Enforcement and Towing. The provisions of this Section 6.14 apply to all vehicles within the Development, including vehicles of guests. In addition to the provisions of this Section 6.14, the Board shall have the power and authority to adopt, promulgate, and enforce Parking Rules and shall have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to vehicles and parking. Subject to the provisions of applicable law, including Vehicle Code section 22658, the Board shall have the power and authority to cause the towing, at the vehicle owner's expense, of vehicles which are parked within the Development in violation of any of the provisions of the Governing Documents. Costs incurred by the Association relating to the towing and/or storage of any

vehicle parked in violation of any provision of the Governing Documents shall be assessed as a Reimbursement Assessment against the Owner responsible or whose household member, Contract Purchaser, tenant, invitee, or guest is responsible for the presence of such vehicle.

- 6.15 Garages. Garage doors shall be kept closed except during ingress or egress or when necessary to provide ventilation for individuals working inside the garage. No part of any garage shall be converted to use as a living area. Garages shall not be used for any purpose that will interfere with the parking of vehicles.
- 6.16 Mineral Exploration. No Lot shall be used to explore for or to remove any water, oil, hydrocarbons, or minerals of any kind without the approval of the Board, and only if permitted by local ordinance.

## **ARTICLE 7                      RENTING OR LEASING**

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***This Article 7, at Section 7.2 contains a rental restriction that was adopted by the Association on December 22, 1992. The rental restriction applies to each Lot acquired by an Owner after December 22, 1992.***

7.1 Requirements for Renting. An Owner renting his or her Lot shall:

- (a) do so pursuant to a written lease or rental agreement. The lease or rental agreement shall expressly provide: (i) for an initial term of at least ninety (90) days, (ii) that its terms are subject to all of the provisions of the Governing Documents, (iii) that failure of the tenant, members of the tenant's household, invitees, or guests to comply with applicable provisions of the Governing Documents shall constitute a default under the terms of such lease or rental agreement; and (iv) that in the event of any such default, the Association shall be entitled to maintain an eviction action against the tenant to the same extent as the Owner of the Lot, the Association being deemed to be a third party beneficiary under such lease or rental agreement, as provided in Section 7.6 ("Association as Third Party Beneficiary");
- (b) file a copy of the signed lease or rental agreement, including the name of each tenant and of the members of the tenant's household, with the Board. The Owner may redact or blackout the financial terms (i.e., the amount of rent and security deposit) from the copy provided to the Board;
- (c) provide the tenant(s) with a copy of the Governing Documents and any subsequent changes thereto. The Association may require evidence that the tenant or lessee has received such copies. If such evidence is not provided in a timely manner after such a request by the Association, the

Association may unilaterally provide such copies to the tenant or lessee and charge the Owner a Reimbursement Assessment for the cost of doing so; and

- (d) provide the Association with contact information for the Owner or a representative of the Owner with authority to act on behalf of the Owner with respect to the Lot and the tenants, including telephone number, email address, mailing address, and such other contact information as the Association may require.

7.2 Limitation on Number of Permitted Rentals. This Section 7.2 is a restatement of the provisions of the 2004 Declaration, at Article 7, Section 7.2. Except as provided in this Section 7.2, not more than thirty-four (34) of the Lots within the Development shall, at any particular time, be leased or rented or occupied by anyone other than an Owner together with members of his or her household or temporary guests, such that at least one hundred sixteen (116) of the Lots are Owner-occupied. For purposes of this Section 7.2, Resident who is a beneficiary under a trust shall be deemed to be an Owner-occupant if legal title to the Lot is in the name of the trustee(s) of the trust.

7.2.1 Application of Limit. The limitation on the number of permitted rentals as set forth in Section 7.2 ("Limitation on Number of Permitted Rentals") shall apply to each Lot acquired by the Owner after December 22, 1992. If the number of Lots being rented at the time of any transfer of a Lot is more than the number permitted pursuant to Section 7.2, the Lot shall be sold or transferred for Owner-occupancy and not for rental. For purposes of this Section 7.2.1, "transfer" shall mean any conveyance that requires the payment of a transfer fee.

7.2.2 Hardship Waivers. The Board shall have the right but shall not be obligated to waive the limitation on the number of permitted rentals or the order of priority of requests to rent in cases of deserving and unusual hardship; provided (i) such waiver shall be for a limited term, not to exceed one (1) year, (ii) the Owner requesting the waiver shall deliver to the Board a signed statement representing that he or she will retake possession and occupancy of the Lot as a Resident thereof upon the expiration of the specified limited term, and (iii) the waiver shall be subject to such other conditions as the Board may determine, which conditions may include but shall not be limited to Board review and approval of the lease for such limited term.

7.2.3 List of Rented Lots. The Board shall establish and maintain a list of all Owners currently leasing or renting a Lot. The list of rented Lots shall include: (i) the Owner's name, (ii) the address of the rented Lot, (iii) the Owner's record date of ownership, and (iv) the term of the lease. The list of rented Lots shall be made available to any Owner. Payment



of a reasonable administrative charge to be set by the Board may be required.

- 7.2.4 Written Request to Rent. Any Owner desiring to rent his or her Lot shall submit to the Board a written request to rent, which shall state: (i) the Owner's name and mailing address, (ii) the Lot address, (iii) the Owner's record date of ownership, (iv) the proposed lease term and the number of tenants; and (v) such other information as the Board may reasonably require from time to time. The Owner shall have the right, upon written request delivered to the Association, to appear in person before the Board to discuss the request to lease or rent his or her Lot.
- 7.2.5 Priority of Requests to Rent. The Board shall establish and maintain a priority list of requests to rent, organized in the order of date received by the Board. The priority list shall include (i) the name of the requesting Owner, (ii) the address of the Lot in question, (iii) the Owner's record date of ownership, and (iv) the date the written request was received by the Board.
- 7.2.6 Review of Request to Rent. Within thirty (30) days after receipt, the Board shall review and shall approve or deny an Owner's request to rent. Written notice of the Board's decision shall be transmitted to the requesting Owner and if the request is denied, the notice shall specify the reason(s) for denial. The Board shall approve the application unless doing so will increase the number of Lots leased or rented within the Development to more than the number permitted under Section 7.2, or will otherwise result in the violation of any provision of this Article 7. When the number of Lots leased or rented in the Development is less than the number permitted under Section 7.2, the Board shall authorize the Owner who submitted the earliest received application to lease or rent his or her Lot. When the number of Lots leased or rented in the Development equals or exceeds the number permitted under Section 7.2, Owner requests to rent shall be added to the priority list maintained pursuant to Section 7.2.5.
- 7.2.7 Reconsideration of Denied Request. If a request to rent is denied, the requesting Owner shall have a right, upon written request, to reconsideration by the Board in accordance with Section 15.13 ("Owner Request for Hearing"). Within fifteen (15) days after such reconsideration, the Board shall transmit its written determination to the requesting Owner.
- 7.2.8 Duration of Authorization to Rent, No Subletting. Except as to Lots grandfathered pursuant to Section 7.2.1 ("Application of Limit") and except as otherwise provided in the case of a hardship waiver granted



pursuant to Section 7.2.2 ("Hardship Waivers"), once an Owner obtains permission to lease or rent a Lot, that Owner shall have the right to continue renting that Lot to consecutive lessees or renters or for consecutive terms without having to submit or re-submit a request to rent; provided (i) the continuing lease or rental is otherwise in compliance with the provisions of this Article 7, (ii) the lease or rental is without interruption of more than thirty (30) days, and (iii) during any interruption in rental the Owner shall not reoccupy the Lot for a period exceeding thirty (30) days. No subletting shall be permitted.

- 7.2.9 Decision of Board Conclusive. The decision of the Board in approving or denying a request to rent, made in accordance with the procedures set forth in this Section 7.2, shall be final and conclusive.
- 7.3 No Transient Rentals. No Owner shall be permitted to lease, rent, or otherwise operate his or her Lot for transient or hotel purposes, which shall include, but is not limited to, rental for any period less than thirty (30) days or any rental (even if the term is longer than thirty days) where the occupant of a Dwelling is provided customary hotel services such as room service for food and beverage, maid service, periodic furnishing of clean bed linen and towels, laundry service, or bellboy services. This Section 7.3 shall not be deemed to permit an initial lease or rental term shorter than ninety (90) days as provided in Section 7.1(a)(i).
- 7.4 Rental of Entire Lot. No Owner shall rent or lease less than the entire Lot. The preceding sentence is intended to prohibit the operation of a rooming house or similar operation within the Development. No garage, accessory building, or other facility shall be rented, leased, or hired to anyone who does not have the right of possession of the entirety of the principal building on the Lot. This Section 7.4 is not intended to prohibit a Resident Owner from sharing his or her Lot or Dwelling with a roommate or other person(s) with whom the Owner maintains a common household.
- 7.5 Implementation. Upon request from the Board, each Owner then renting or leasing a Lot shall provide to the Board such information as the Board may reasonably require to implement the provisions of this Article 7.
- 7.6 Association As Third Party Beneficiary. Notwithstanding the failure of an Owner to comply with the requirements of Section 7.1 ("Requirements for Renting"), and whether or not it is so stated in a written contract or other agreement between such Owner and such tenant, the Owner and the tenant of any Lot subject to this Declaration shall be conclusively deemed to have agreed that the Association is an intended third party beneficiary to the contract between the Owner and the tenant; that failure of the tenant, members of the tenant's household, tenant's invitees, or guests to comply with applicable provisions of the Governing Documents shall constitute a breach of the terms of the contract between the Owner and the tenant; and that the Association shall have the right but not the

obligation to enforce the contract and to pursue every remedy available under the contract, under this Declaration including but not limited to the rights granted pursuant to Section 9.19 ("Assignment of Rents as Security for Payment"), or under the law. This Section 7.6 shall apply to any tenancy commencing or extended or renewed after the date this Declaration is recorded. The power of the Association as provided in this Section 7.6 shall be exercised in good faith, in a reasonable and nondiscriminatory manner, and only after notice and opportunity for a hearing as provided in Article 15 ("Enforcement; Notice, Hearings").

- 7.7 Indemnification Regarding Tenant's Actions. Each Owner leasing or renting a Lot shall be strictly responsible and liable to the Association for the actions of such Owner's tenant(s) in or about all Dwellings, Lots, and Common Area and for each tenant's compliance with the provisions of the Governing Documents. To the fullest extent permitted by law, every Owner of a Lot that is occupied by persons other than the Owner pursuant to a rental agreement or lease or otherwise, agrees to and shall indemnify and defend the Association, its officers, directors, employees, and agents and shall hold them harmless from and against any cost, loss, claim, or damages of any kind, arising out of the conduct or presence of the occupants of the Lot upon the Development, including but not limited to attorneys' fees, any claims for consequential damages, and any claims arising or alleged to arise out of the enforcement or nonenforcement by the Association of the Governing Documents with respect to such occupants. Any amounts owed pursuant to this Section 7.7 may be assessed as a Reimbursement Assessment.

## **ARTICLE 8                      ARCHITECTURAL APPROVAL**

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- 8.1 Prior Architectural Approval Required. No building, fence, hedge or similar barrier, wall, obstruction, balcony, screen, patio cover, tent, awning, carport cover, shed, improvement or other structure of any kind, no outdoor lighting, no mast, pole, tower, antenna, receiver, or transmitter to the extent restricted by Section 8.4.4 ("Satellite Dishes and Antennas"), and no landscaping shall be commenced, erected, painted, or installed within the Development, nor shall any exterior addition or change or alteration be made, until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same have been submitted to and approved in writing by the Board. The requirement of architectural approval shall not apply to improvements made or constructed by or on behalf of the Association.
- 8.2 Preliminary Consultation Prior to Submitting Application. Any Owner considering performing any work requiring the prior approval may apply to the Board for preliminary consultation by submitting preliminary plans or drawings of the contemplated work in accordance with the Architectural Rules. The purpose of the preliminary consultation procedure is to allow an Owner considering making

substantial improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required to apply for actual approval. Within forty-five (45) days after receiving a request for a preliminary consultation, the Board shall consider the preliminary information submitted and shall respond in writing to the Owner. The response shall give the requesting Owner such direction concerning the form and substance of an approval application for the contemplated work as the Board deems proper or desirable for the guidance of the Owner. The issuance of a preliminary consultation response by the Board shall not under any circumstances be deemed approval of any contemplated work; nor, once an Owner submits a request for approval, shall it preclude the Board requesting additional information about the proposed work based on the actual application.

- 8.3 Architectural Rules. Subject to the requirements of *Civil Code* section 4340 and following, the Board may from time to time adopt, amend, and repeal rules and regulations to be known as "Architectural Rules." Architectural Rules shall set forth the standards for Board review and guidelines for architectural design, placement of buildings and other structures, outdoor lighting, color schemes, exterior finishes and materials, placement and types of trees, shrubbery and other vegetation and similar features for use in the Development and may include restrictions on satellite dishes and solar energy systems consistent with applicable law; *provided, however*, that Architectural Rules shall not be in derogation of any minimum standards required by this Declaration.

- 8.4 Some Common Architectural Concerns. Without limiting the generality of Section 8.1 ("Prior Architectural Approval Required"):

8.4.1 Window Coverings. All drapes, window shades or other window coverings visible from outside the Residence shall comply with applicable Architectural Rules. Any drapes or window covering installed in compliance with the Rules may remain for the useful life thereof.

8.4.2 Exterior Wiring. No telephone, cable television, or other wiring shall be routed along the building exterior unless prior architectural approval has been obtained. If an Owner cannot provide a copy of a bona fide written approval from the Association for any such installation it shall be presumed to be non-approved.

8.4.3 Solar Energy Systems. Solar energy systems as defined in *Civil Code* section 801.5(a)(1) and (2) are subject to prior architectural approval pursuant to this Article 8. Pursuant to *Civil Code* section 714 and *Civil Code* section 714.1, the Architectural Rules may impose reasonable restrictions on solar energy systems, provided such Rules shall not significantly increase the cost of the system or significantly decrease the efficiency or specified performance, and shall allow for an

alternative system of comparable cost, efficiency, and energy conservation benefits. The Rules may restrict installation in Common Areas, and may require that the Association be indemnified for loss or damage caused by installation, maintenance, or use of solar energy systems. Nothing in this Declaration shall be deemed to authorize or permit any Owner to install any solar energy system upon any portion of the Common Area.

8.4.4 Satellite Dishes and Antennas. No outside radio or television aerial, antenna, dish, pole, wire, tower or other receiving or transmitting device shall be erected, constructed, or maintained on any Residence Lot, except (i) those expressly approved by the Board or (ii) those that, by law, cannot be prohibited. It is the intention of this Section 8.4 to restrict radio or television aerials, antennas, dishes, poles, wires, towers and other receiving or transmitting devices in the Development to the fullest extent permitted by law and to authorize the Board to adopt and implement Rules regarding the same.

8.4.5 Masts, Poles, Other Projections. No outside mast, pole, or projection of any type shall be placed or permitted to remain above the roof of any building with the exception of chimneys and vent stacks unless approved by the Board.

8.5 Written Request for Board Approval. Any Owner proposing to perform any work that requires prior approval pursuant to this Article 8, shall submit to the Board a written request setting forth the nature of the proposed work and furnishing such information and documentation as the Board may require depending on the nature and size of the proposed work. Such information and documentation may include but is not limited to: (i) floor plans, (ii) color samples of exterior materials, (iii) specifications, (iv) building plans, (v) wall sections, (vi) exterior elevations, (vii) roof plans, (viii) landscaping plans, (ix) graphics and exterior furnishings, and (x) the Owner's proposed construction schedule.

8.6 Fees; Professional Consultants. The Board may charge a reasonable fee or fees for review of architectural or landscaping applications, drawings, plans, and specifications which may include the cost of retaining outside consultants including but not limited to architects, engineers, soils experts, or contractors.

8.7 Decisions to be Made in Good Faith. An Owner's request for approval shall be considered by the Board in an open Board meeting. The Owner and, in the Board's discretion, other interested persons, may present information relevant to the requested approval. The Board's decisions shall be made in good faith and shall not be unreasonable, arbitrary, or capricious. It is recognized and intended that the Board will employ subjective criteria and judgments in its review of and determination concerning plans and proposals submitted to it. The Board shall make its decisions from the perspective of the interest of the Development as a

whole in the fostering of the coherence, value, attractiveness and aesthetic compatibility of all architectural designs and features in the Development, after consideration of such factors the Board reasonably determines to be relevant and after reasonable investigation consistent with the scope and circumstances of the proposal submitted to the Board. The Board shall grant the requested approval only if:

- (a) The Owner has submitted a complete application;
- (b) The Board finds that the plans and specifications conform to this Declaration and to the Architectural Rules in effect at the time such plans were submitted to the Board;
- (c) The Board finds that the proposed work will, if approved, be consistent and compatible with the architectural and aesthetic standards prevailing within the Development and will be in harmony with the external design and appearance of other existing structures and improvements within the Development, and as to location with respect to topography and finished grade elevations; and
- (d) The Board determines that the proposed work would be consistent with the standards of the Development and the purposes of this Declaration as to quality of workmanship and materials.

8.8 Variances. The Board may grant reasonable variances or adjustments in order to overcome practical difficulties due to topography or other conditions unique to a particular Lot and to prevent unnecessary hardships in the application of the provisions of the Declaration; *provided, however,* that such variance or adjustment is in conformity with the intent and purposes of the Declaration and *provided, further,* that no such variance or adjustment shall constitute a waiver of such provision with respect to any future application whether for the same Lot or any other Lot. Any variance granted by the Board shall be noted in the written approval of the proposed work and may be required by the Board to be recorded in the County records.

8.9 Decisions in Writing; Conditions of Approval. All approvals and rejections of requests for approval shall be in writing and shall be issued by the Board within forty-five (45) days from the date of submission of a complete application to the Board. Any approval may include such reasonable conditions as the Board may determine. If a request is rejected, the decision shall include an explanation of the Board's decision.

8.10 Failure of Board to Make Timely Decision. If the Board shall fail to act on a request for approval within the time specified in Section 8.9 ("Decisions in Writing; Conditions of Approval"), the Owner shall be entitled to invoke internal dispute resolution pursuant to *Civil Code* section 5910, discussed in Section

15.16 (Internal Dispute Resolution”); *except that* in the case of an application for installation or use of a solar energy system subject to *Civil Code* section 714, any application that is not denied by the Board within sixty (60) days from receipt of a complete application shall be deemed approved; nevertheless, as provided in Section 8.4.3 (“Solar Energy Systems”), nothing in this Declaration shall be deemed to authorize or permit any Owner to install any solar energy system upon any portion of the Common Area.

- 8.11 Failure to Obtain Required Approval. If any work that requires prior approval pursuant to this Article 8 is performed without such approval having been obtained, the Board shall be entitled to proceed in accordance with the provisions of Section 8.15 (“Notice of Non-Conformity”) as though the Board had given written notice of non-conformity with approved plans.
- 8.12 Commencement of Approved Work. Upon receipt of written approval, the Owner shall, as soon as practicable, satisfy all conditions of the approval and diligently proceed with the commencement and completion of all approved work. Commencement of the approved work shall occur, in all cases, within one (1) year from the date of such approval. If the Owner fails to comply with this paragraph, any approval previously given shall be deemed revoked unless the Board, upon written request of the Owner made prior to the expiration of the time for commencement of the approved work, extends the time for such commencement. The Board shall not grant an extension of time for commencement of the approved work if the Board finds that there has been a material change in the circumstances upon which the original approval was granted.
- 8.13 Completion; Extension of Deadline. The Owner shall complete all approved work within six (6) months after commencement thereof; except that in the case of reconstruction after substantially total destruction of the improvements on a Lot, the construction or reconstruction shall be completed within one (1) year after commencement thereof. The date for completion may be extended as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or his or her agents, provided the Owner notifies the Board of such occurrence within a reasonable time after becoming aware of it. If an Owner fails to comply with this Section 8.13, the Board shall be entitled to proceed in accordance with the provisions of Section 8.15 (“Notice of Non-Conformity”), as though the Board has given written notice of non-conformity with approved plans.
- 8.14 Notice of Completion; Inspection of Completed Work. Upon the completion of any work for which approval is required under this Article 8, the Owner shall give written notice of completion to the Board. Within sixty (60) days after receiving notice of completion from the Owner, the Board or its duly authorized representative may inspect such work to determine if it substantially complies



with the granted approval. If the Board fails to notify the Owner of any non-conformity within such sixty (60) day period, the work shall be deemed to be in accordance with the granted approval. If the Owner fails to give notice of completion, the Board shall be entitled to proceed in accordance with the provisions of Section 8.15, (Notice of Non-Conformity"), as though the Board has given written notice of non-conformity with approved plans.

- 8.15 Notice of Non-Conformity. If the Board finds that the work was not done in substantial conformity with the granted approval, it shall notify the Owner in writing before the end of such sixty (60) day period set forth in Section 8.14 ("Notice of Completion; Inspection of Completed Work") specifying particulars of non-conformity and requiring the Owner to remedy the same within thirty (30) days from the date of the notice from the Board or such longer time as the Board may designate in the notice.
- 8.16 Failure to Remedy Non-Conformity. If the Owner fails to remedy such non-conformity within the time specified in the notice of non-conformity from the Board, the Board shall then, pursuant to the procedures set forth in Section 15.12 ("Hearing Called by the Board; Executive Session; Open Meeting"), set a date on which a hearing before the Board shall be held regarding the alleged non-conformity. If the Board finds at such hearing that a substantial non-conformity exists, the Board may order the Owner to remedy or remove such non-conformity. If the Owner thereafter fails to do so within the time specified by the Board, the Board may, in addition to any other remedy, remove or remedy the non-conformity and, in that event, all expenses incurred by the Association in connection therewith shall be assessed against the Owner as a Reimbursement Assessment.
- 8.17 Non-Waiver. The approval by the Board of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring approval under this Article 8, shall not be deemed to constitute a waiver of the right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval with respect to the same Lot or any other Lot.
- 8.18 Disclaimer of Liability. Neither the Board nor any member thereof shall be liable to the Association, to any Owner, or to any person deriving an interest through an Owner for any damage, loss, or prejudice suffered or claimed on account of: (i) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or (iii) the development of any property within the Development; *provided, however*, that the Board or such member has acted in good faith on the basis of such information as may be possessed by it or him or her. Without limiting the generality of the foregoing, the Board may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted for approval pursuant to this Article 8. Every

purchaser, by acquiring title to a Lot or portion thereof agrees not to bring any action or suit against the Board or its members seeking to recover any such damages.

- 8.19 Compliance With Governmental Requirements. The Owner of each Lot is solely responsible for complying with any applicable building permit process or other governmental requirements with respect to any work done upon the Owner's Lot. The submission of a request for approval by the Board and the review and approval of any proposals, plans, or other submittals shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, nor shall it constitute the assumption of any responsibility by or impose any liability on the Board or its members as to the accuracy, efficacy, or sufficiency thereof. When Architectural approval standards of the Association are more stringent than applicable governmental standards, the more stringent standards of the Association shall apply, notwithstanding the fact that governmental approval may have been obtained based on governmental standards that are less stringent than those of the Association.

## **ARTICLE 9                      ASSESSMENTS AND LIENS**

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- 9.1 Covenant of Owner. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association all: (i) Annual Assessments, (ii) Special Assessments, (iii) Reimbursement Assessments, and (iv) Enforcement Assessments levied by the Association as hereinafter provided, together with all Additional Charges.
- 9.1.1 Association's Power to Collect. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens hereinafter provided for.
- 9.1.2 Assessments Are a Personal Obligation. Assessments levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a personal debt and obligation of the Owner against whom they are assessed, and shall bind his or her heirs, devisees, personal representatives, successors, and assigns.
- 9.1.3 Obligation Runs with the Land. The obligation to pay Assessments and Additional Charges and the right and power of the Association to initiate all actions and procedures for collection shall run with the land, so that each successive Owner or Owners of any Lot shall, in turn, become liable to pay all such Assessments and Additional Charges



assessed that become due and payable during the time he or she is Owner of such Lot.

- 9.1.4 Owner's Liability After Transfer. After an Owner transfers of record his or her interest in any Lot, he or she shall not be liable for any Assessments levied thereafter with respect to such Lot. Such Owner shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer, together with Additional Charges accruing until time of collection. No assumption of personal liability by a successor Owner shall relieve any Owner from personal liability for delinquent Assessment. A Contract Seller of any Lot shall continue to be liable for all Assessments and Additional Charges until a conveyance by deed of such Lot is recorded in the Office of the County Recorder.
- 9.2 Creation of Lien. Each Assessment levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a charge upon the land and upon levy shall be secured by a continuing lien upon the property against which such Assessment is levied. The Association shall have a separate lien and a separate lien is hereby created upon each Lot to secure the payment of any such Assessments and Additional Charges as may be levied under this Declaration.
- 9.2.1 Lien is Continuing. The lien provided for herein shall continue to secure all Assessments and Additional Charges levied upon any Lot notwithstanding the transfer of record title to such Lot, and any such transfer shall be subject to the Association's lien, provided that, prior to such transfer, a notice of delinquent assessment has been recorded as provided in the Declaration and by law.
- 9.2.2 Priority of Liens. The priority of all such liens on each Lot shall be in inverse order so that upon the foreclosure of the lien for any particular charge on any Lot, any sale of such Lot pursuant to foreclosure of the lien will be made subject to all liens securing Assessments and Additional Charges on such Lot that become due and payable subsequent to the lien being foreclosed upon.
- 9.3 Purpose of Assessments. The Assessments levied by the Board shall be used exclusively to pay for the costs of management and operation of the Development, of conducting the business and affairs of the Association, to promote the recreation, health, safety, welfare, benefit, and interests of the Owners and Residents in the Development, and for the improvement and maintenance, repair, and replacement of the Common Area and, to the extent provided for in the Governing Documents or by law, of the Lots situated within the Development or which, in the opinion of the Board, shall be deemed to be necessary or proper for the management of the Development or of the affairs of

the Association, or the benefit of the Owners, or for the enforcement of the Governing Documents.

- 9.4 Funds to be Held in Association's Name. Unless otherwise determined by the Board, the Association shall maintain at least two (2) separate accounts in one (1) or more banks or other depositories selected by the Board, which accounts shall be clearly designated SONOMA GREENS COMMUNITY ASSOCIATION OPERATING ACCOUNT and SONOMA GREENS COMMUNITY ASSOCIATION RESERVE ACCOUNT. The Assessments collected by the Association shall be properly deposited into such accounts. Withdrawal of funds from Association accounts shall be subject to the requirements of Section 10.4 of the Bylaws ("Checks, Drafts, and Evidences of Indebtedness").
- 9.5 Funds Held in Trust for Owners. The Assessments collected by the Association shall be held in trust by the Association for and on behalf of each Owner. Upon sale or transfer of any Lot by any Owner, the Owner's interest in the funds held in trust by the Association shall terminate and shall be deemed automatically transferred to the successor-transferee of such Owner.
- 9.6 Authority of the Board to Levy Assessments. The Board shall have the power and the duty to levy Annual and Special Assessments sufficient to meet the Association's obligations under the Governing Documents and applicable law.
- 9.7 Annual Assessment.
- 9.7.1 Calculation of Estimated Requirement. Prior to the beginning of each fiscal year, the Board shall estimate the net funds required by the Association for such fiscal year to manage, administer, operate, and maintain the Development; to conduct the affairs of the Association; and to perform all of the Association's duties in accordance with the Governing Documents, including a reasonable amount allocated to contingencies and to a reserve fund for restoration, repair, and/or replacement of those components for which the Association is responsible and which must be repaired or replaced on a periodic basis. The amount of estimated required funds shall constitute the Annual Assessment.
- 9.7.2 Allocation and Payment of Annual Assessment. The Board shall allocate and assess the Annual Assessment equally among the Lots by dividing the amount by the number of Lots within the Development. Unless the Board shall designate otherwise, Annual Assessments shall be levied on an annual basis and shall be paid in twelve (12) equal monthly installments during the fiscal year, and each installment shall be due and payable on the first day of each month.

9.7.3 Notice of Annual Assessment. Not less than thirty (30) days and not more than ninety (90) days prior to the beginning of each fiscal year, the Board shall send to each Owner a notice of the amount of the Annual Assessment allocated to his or her Lot, except that if there is an increase in the Annual Assessment over the previous year, in compliance with *Civil Code* section 5615 the notice shall be provided in accordance with *Civil Code* section 4040 to the Owner not less than thirty (30) days and not more than sixty (60) days before the due date of the increased Annual Assessment.

9.7.4 Permitted Increase in Annual Assessment. Pursuant to *Civil Code* section 5605(b), except as otherwise provided by law, the Board shall not increase the Annual Assessment for any fiscal year above the amount of the Annual Assessment for the preceding fiscal year by more than twenty percent (20%) (or such other limitation on the increase as may be imposed by law), except upon the affirmative vote of a majority of Members voting on any such increase in the Annual Assessment, provided that a quorum is established. For purposes of the preceding sentence and to the extent required pursuant to *Civil Code* section 5605(c), a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

9.7.5 Revised Annual Assessment. Subject to the provisions of Section 9.7.4 ("Permitted Increases in Annual Assessment") or as otherwise permitted by law, if at any time during the course of any year, the Board determines the amount of the Annual Assessment to be inadequate, by reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting of the Board, to revise the Annual Assessment for the balance of the fiscal year. Any such revised Annual Assessment shall become effective on the first day of the next month following the date of adoption by the Board.

## 9.8 Special Assessments.

9.8.1 Purpose of Special Assessments. If at any time during any fiscal year the Annual Assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof or the unexpected repair, replacement, or reconstruction of improvements located in the Development, or if funds are otherwise required for any authorized activity of the Association, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost.

9.8.2 Permitted Amount of Special Assessments. Except in the case of an emergency situation as defined in *Civil Code* section 5610, in any fiscal

year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year (or such other limitation on the amount as may be imposed by law), except upon the affirmative vote of a majority of the Members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence and to the extent required pursuant to *Civil Code* section 5605(c), a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

- 9.8.3 Allocation of Special Assessments. Special Assessments shall be allocated and assessed among the Lots in the same manner as Annual Assessments.
- 9.8.4 Notice of Special Assessment. Upon the imposition of a Special Assessment or an increase in a Special Assessment, in compliance with *Civil Code* section 5615 notice shall be given to each Owner in accordance with *Civil Code* section 4040, not less than thirty (30) days and not more than sixty (60) days prior to the due date of the Special Assessment.
- 9.8.5 Payment of Special Assessments; Cost of Payment Plans. Special Assessments shall be payable in a lump sum or in installments as may be determined by the Board with regard to each Special Assessment when it is imposed. If the Association incurs additional expenses because of a payment method selected by an Owner (for example, but not limited to, paying a Special Assessment in installments instead of in a lump sum), the Association may charge such expense to the Owner as an Additional Charge or as a Reimbursement Assessment. Nothing in this Section 9.8 shall be deemed to obligate the Association to offer or permit alternate payment plans.
- 9.9 Application of Surplus Funds (IRS Resolution). If, as of the end of any fiscal year, there is an excess of membership income over membership expenses as defined in Internal Revenue Code section 277 for the year ended, the Board shall determine, without the need for a Member vote, whether such excess shall be applied against the subsequent tax year's Member Assessments as provided in Internal Revenue Service Revenue Ruling 70-604. If the Board does not determine to so apply such excess membership income, any other lawful disposition of such excess income shall be as determined by the vote of the Members.
- 9.10 Reimbursement Assessments. The Board may levy a Reimbursement Assessment against an Owner and his or her Lot:

- (a) to reimburse the Association for costs incurred to maintain, repair, or replace property (including property within a Lot) when such damage is due to the act or neglect of such Owner, his or her Contract Purchaser, or member of his or her household, pet, tenant, invitee, or guest, or as otherwise provided in the Governing Documents;
- (b) if the failure of such Owner, his or her Contract Purchaser, or member of his or her household, pet, tenant, invitee, or guest to comply with any provision of the Governing Documents has necessitated or resulted in an expenditure of funds by the Association to deal with such lack of compliance or to bring such person or the Lot into compliance;
- (c) to reimburse the Association for any costs of collecting from an Owner any amount the Owner is obligated to pay the Association.

Without limiting the generality of the foregoing, and to the fullest extent permitted by law, all costs including attorneys' fees, incurred by the Association to enforce Section 6.3 ("Restriction on Businesses"), Section 6.10 ("Animals"), Section 7.6 ("Association As Third Party Beneficiary"), Section 7.7 ("Indemnification Regarding Tenant's Actions"), Section 9.19 ("Assignment of Rents as Security for Payment"), and Section 15.6 ("Injunctions"), or to defend any claim arising or alleged to arise from any of the foregoing sections, shall be reimbursed to the Association as a Reimbursement Assessment. Any Reimbursement Assessment shall be due and payable to the Association when levied.

9.11 Enforcement Assessments. Subject to the requirements set forth in Section 15.8 ("Imposing Sanctions"), the Board may levy an Enforcement Assessment (and any fine or monetary penalty imposed by the Board in accordance with the provisions of the Governing Documents shall be deemed to be such an Enforcement Assessment), for violation of any of the provisions of the Governing Documents. Any Enforcement Assessment shall be due and payable to the Association when levied.

9.12 Failure to Fix Assessments. The failure or omission by the Board to fix or levy any Annual Assessment before the expiration of any fiscal year, for that fiscal year or the next fiscal year, shall not be deemed either a waiver or a modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay Assessments or any installment thereof for that or any subsequent year, but the amount of the Annual Assessment fixed for the preceding fiscal year shall be the amount of the Annual Assessment for the ensuing fiscal year until a new Annual Assessment is levied.

9.13 No Offsets. All Assessments levied by the Board shall be payable in the full amount specified, including any Additional Charges imposed as provided by the terms of this Declaration, and no offsets against any such amounts shall be

permitted for any reason whatsoever, including without limitation a claim that the Association has failed to properly exercise its duties of maintenance or enforcement.

- 9.14 Bad Checks. An Owner who writes a check to the Association on insufficient funds shall be charged a service fee in the amount permitted by *Civil Code* section 1719 and may be liable for damages to the Association in an amount equal to three (3) times the amount of the bad check, as provided by statute.
- 9.15 Delinquent Assessments; Acceleration in the Event of Delinquency. Any installment or other portion of an Assessment not received within fifteen (15) days after its due date shall be delinquent and, to the fullest extent permitted by law including *Civil Code* section 5650(b), shall be subject to interest and late charges not to exceed the maximum rate permitted by law, as well as all other Additional Charges. If any monthly installment of the Annual Assessment or any installment of a Special Assessment that has been levied or is permitted to be paid on an installment basis is delinquent for a period of sixty (60) days, the Association may, but shall not be obligated to, declare the entire balance of the Annual Assessment immediately due and payable together with all other delinquent amounts. In the event an Owner becomes delinquent in payment of Assessments, the Association may notify any Mortgagee of the Lot of such delinquency.
- 9.16 Enforcement by Action at Law or Foreclosure. The Board, on behalf of the Association, may enforce the payment of any delinquent Assessment plus Additional Charges by bringing an action at law against any Owner personally obligated to pay the same, or by foreclosing the lien against the Owner's Lot by judicial or non-judicial foreclosure, to the fullest extent permitted by law. To the extent prohibited by *Civil Code* section 5725(c), the amount of an Enforcement Assessment may not become a lien that is enforceable by non-judicial foreclosure.
- 9.16.1 Pre-Lien Notice and Procedures. At least thirty (30) days prior to recording a Notice of Delinquent Assessment against a Lot to collect a debt that is past due, the Association shall provide written notice to the Owner(s) of the Lot, as required by *Civil Code* section 5660 ("Pre-Lien Notice").
- 9.16.2 Prior to Recording a Lien. Prior to recording a Notice of Delinquent Assessment, the Association shall comply with all applicable requirements imposed by law, including offering to participate in internal dispute resolution (Section 15.16 of this Declaration) or Alternative Dispute Resolution (Section 15.17 of this Declaration) to the extent required pursuant to *Civil Code* section 5670 and making the decision to record a lien for delinquent Assessments at an open

meeting of the Board, to the extent required pursuant to *Civil Code* section 5673.

- 9.16.3 Owner's Right to Discuss Payment Plan. To the extent provided in *Civil Code* section 5665, an Owner may submit to the Board a written request to discuss a payment plan for a debt noticed in a Pre-Lien Notice. If the Owner's written request is mailed to the Board (as evidenced by a postmark or receipt of mailing) within fifteen (15) days after the postmark on the Pre-Lien Notice, the Board shall meet with the Owner within forty-five (45) days of the postmark date of the Owner's written request, unless there is not a regularly scheduled Board meeting within the period, in which case the Board, in its discretion, may hold a special meeting in executive session to meet with the Owner or may designate a committee of one (1) or more Board members to meet with the Owner.
- 9.16.4 Notice of Delinquent Assessment. The amount of the past due debt noticed in the Pre-Lien Notice shall be a lien from and after the recording of a Notice of Delinquent Assessment. No later than ten (10) days after recordation, a copy of the Notice of Delinquent Assessment shall be mailed by certified mail in compliance with *Civil Code* section 5675 to every person whose name is shown as an Owner of the Lot in the Association records or in such manner and to such persons as may be required by applicable law.
- 9.16.5 Delinquent Assessments of Less than \$1,800. To the extent provided in *Civil Code* section 5720(b), delinquent Assessments totaling less than One Thousand Eight Hundred Dollars (\$1,800) that are less than twelve (12) months delinquent may not be collected by judicial or non-judicial foreclosure, but may be collected in any other manner provided by law including a civil action in small claims court to the extent provided in *Civil Code* section 5720(b)(1) or recording a lien as provided in *Civil Code* section 5720(b)(2). Prior to recording such a lien the Association shall offer to participate in internal dispute resolution (Section 15.16 of this Declaration) to the extent required by *Civil Code* section 5720(b)(2).
- 9.16.6 Initiating Foreclosure. As provided in *Civil Code* section 5700(a), no procedures shall be initiated to foreclose the lien securing any noticed past due debt under this Article 9 until after the expiration of thirty (30) days following the recording of a Notice of Delinquent Assessment. To the extent required pursuant to *Civil Code* section 5700(b), the Association shall offer to participate in internal dispute resolution (Section 15.16 of this Declaration) or Alternative Dispute Resolution (Section 15.17 of this Declaration). To the extent required by *Civil*



Code section 5700(c), a decision to initiate foreclosure shall be made only by the Board in an executive session meeting.

- 9.16.7 Amount Due and Payable. Except with respect to the amount of any Enforcement Assessment, upon the recording of the Notice of Delinquent Assessment referred to above, the Association may, at its option, declare the entire balance of all sums then due or to become due from the Owner, immediately due and payable, which total sum may then be included in any suit, action, or other procedure initiated to collect said sums, including all Additional Charges.
- 9.16.8 Notice of Initiating Foreclosure. To the extent required pursuant to *Civil Code* section 5705(d), the Association shall provide written notice of initiating foreclosure to the record Owner of the Lot, including notice by personal service to any resident Owner.
- 9.17 Power of Sale. Each Owner does hereby appoint the Association as trustee to enforce and to foreclose any lien which is established pursuant to the terms of this Declaration, by private power of sale, as provided in Division III, Part 4, Title 14, Chapter 2, Article 1, (section 2920 and following) of the *Civil Code* of the State of California, and does further grant to the Board of Directors, on behalf of the Association, the authority and power to sell the Lot of such Owner in the event of any default in payment of any Assessments or Additional Charges levied against such Lot, for lawful money of the United States, to the highest bidder, to satisfy said lien. The Association, as trustee for the remaining Owners, or any other Owner, may purchase the Lot at said sale.
- 9.18 Right of Redemption. To the extent provided pursuant to *Civil Code* section 5715(b), a non-judicial foreclosure to collect delinquent Assessments shall be subject to a right of redemption.
- 9.19 Assignment of Rents as Security for Payment. As security for the payment of all liens provided for under this Declaration, each Owner hereby gives to and confers upon the Association the right, power, and authority during the continuance of such ownership to collect the rents, issues, and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligations under the Governing Documents in payment of any indebtedness to the Association or in performance of any agreement under the Governing Documents including but not limited to those set forth in Article 7 ("Renting or Leasing"), to collect and retain such rents, issues, and profits as they become due and payable. Upon any such default, the Association may at any time, upon ten (10) days' written notice to such Owner, then (either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for such indebtedness) enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues, and profits, including those past

due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any such indebtedness, and in such order as the Association may determine or as required by applicable law. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, and the application thereof as aforesaid, shall not cure or waive any default under the Governing Documents or invalidate any act done pursuant to this Declaration. The assignment of rents and powers described in this Section 9.19 shall not affect, but shall in all respects be subordinate to, the rights and power of the holder of any First Mortgage on any Lot, or any part thereof, to do the same or similar acts.

- 9.20 Remedies Are Cumulative. The Board may commence any procedure for the collection of delinquent Assessments upon its own decision. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive; that is, the Association may use one (1) or more or all of the available remedies to collect delinquent Assessments to the fullest extent permitted by law.
- 9.21 Certificate of Satisfaction and Release of Lien. Upon payment in full of a delinquent Assessment, including any Additional Charges, or the satisfaction thereof, the Board shall cause to be recorded, in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction thereof and the release of the lien.
- 9.22 Subordination to Lien of First Mortgage. Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for under this Declaration shall have priority as of the date of recording of the Notice of Delinquent Assessment as provided in Section 9.16.4 over all other liens and encumbrances applicable to the Lots; *provided, however*, that such Assessment lien shall be subordinate to the lien of any First Mortgage recorded against the Lot; and *provided, further*, that such subordination shall apply only to the Assessments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such First Mortgage, or pursuant to a power of sale contained in any such First Mortgage. Such foreclosure sale shall not relieve such property from liability for any Assessments and Additional Charges thereafter becoming due, nor from the lien of any subsequent Assessment.
- 9.23 Waiver of Exemptions. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration, the benefit of any homestead or exemption laws of the State of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed pursuant to the terms of this Declaration.

9.24 Property Exempt From Assessments. The following property subject to this Declaration shall be exempt from the Assessments, Additional Charges, and liens created herein:

- (a) All property dedicated to and accepted by the County or other local public authority and devoted to public use;
- (b) Any Lot which is owned by the Association as a result of the Association having acquired such Lot through foreclosure; *provided, however,* that such exemption shall apply only during the period in which the Association is record owner of such Lot; and
- (c) All Common Area.

## **ARTICLE 10            MAINTENANCE OF PROPERTY**

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10.1 Association Responsibility for Common Area Generally. The Association has the exclusive right and responsibility to provide maintenance, repair, and replacement of the Common Area and all facilities, improvements, and landscaping thereon, including but not limited to landscaping, pools, tennis courts, lakes, bridges, recreational facilities and lighting, walkways, water and sewer lines serving the Common Area or more than one (1) Lot, asphalt driveways and streets, irrigation system, storm drains, and the dam, and all other real and/or personal property that may be acquired by the Association, keeping such property in good condition and good repair. Without limiting the generality of the foregoing:

10.1.1 Lakes, Dam, Native Oaks. The lakes, the dam, the landscaping, and the native oak trees upon the Common Area shall be maintained in accordance with the guidelines contained in that certain "Sonoma Greens - Bemcore Enterprises, Inc. Management Guidelines," prepared by Royston, Hanamoto, Alley and Abey, Micron Systems, Inc., Harding Johnson Associates, and Sohner Tree Service, Inc., a copy of which is on file with the County Planning Department of the County of Sonoma, State of California.

10.1.2 Landscaping, Janitorial, Painting. The Association shall specifically be responsible for providing lighting, landscaping, gardening (including irrigation and periodic replacement, as the Board deems necessary, of trees, shrubs, and other plants upon the Common Area), and janitorial services for the Common Area, as needed, and shall cause any and all other acts to be done which may be necessary to assure the maintenance of the Common Area in good condition and repair, including painting of the exterior surfaces of Common Area building(s)

and such other portions of the Common Area as the Board, in its discretion, determines to be necessary.

- 10.1.3 Common Area Fences. The Association shall maintain, repair, and replace all perimeter fences in the Development (which front the public thoroughfares) and all other fences upon the Common Area including but not limited to the fencing and gates surrounding the pools, but excluding Party Fences and any other fences upon the Lots and excluding any fences situated on or approximately on the boundary line between a Lot and any portion of the Common Area.
- 10.1.4 Taxes on Common Area. The Association shall pay all taxes and assessment, if any, levied or assessed separately against the Common Area.
- 10.1.5 Common Area Utilities and Services. The Association shall procure and pay for water, sewage, garbage, electrical, gas, telephone, fiberoptics, cable, and other service for the Common Area and (to the extent not separately metered or charged) for the Lots. The Association may procure or otherwise facilitate the installation or provision of communication services such as satellite, internet, bulk cable services or other technologies and allocate charges equitably. The Association shall maintain all utility installations located in the Common Area except for (i) those installations maintained by utility companies, public, private, or municipal and (ii) utility lateral lines that serve a single Lot exclusively.
- 10.1.6 Employees or Independent Contractors. The Association may perform its obligations and provide such services as the Board shall determine through employees of the Association or through independent contractors. In either case, Residents or Owners shall not interfere with or attempt to instruct any of such persons in the performance of their duties.
- 10.2 Association Responsibility for Lots. The Association shall provide maintenance, repair, and replacement of the Lots as follows:
  - 10.2.1 Exterior Surfaces. The Association shall have the exclusive right and responsibility to provide maintenance (including periodic painting), repair, and replacement of the exterior surfaces of the Dwellings. "Exterior surfaces" shall mean the exterior surface covering of the perimeter walls as such surface may be replaced from time to time (including but not limited to siding or stucco), the moisture proof barrier below the exterior covering, exterior trim pieces around doors and windows, and the chimney cap but only when replacement of the chimney cap is necessary in the judgment of the Board for aesthetic

reasons. "Exterior surfaces" shall not include glass, window frames, window sashes, or doors, flashing around windows or doors, door or window hardware or locks, screens, exterior lights, house numbers, or any other exterior decoration or fixture. Such maintenance, repair and replacement shall be periodically performed by the Association as determined by the Board.

10.2.2 Painting; Limited Responsibility for Some Components. Painting by the Association shall be performed periodically as determined by the Board and in colors selected by the Board. Notwithstanding anything to the contrary contained in Section 10.2.1, above, with regard to the doors, door frames, garage door and garage door frame, and windows frames of the Dwellings, all gutters and downspouts, roof valley flashing, chimneys and miscellaneous roof vent pipes and ventilators (but excluding the surface of the roof covering material), Party Fences between Lots, and boundary fences situated on or approximately on the boundary line between a Lot and any portion of the Common Area, the Association shall be responsible only for periodic painting (as determined by the Board) of the exterior surfaces (and the Association shall not be responsible for any other maintenance or any repair or replacement of any of the foregoing, nor painting at a time other than the scheduled painting cycle).

10.2.3 Roof Coverings. The Association shall have the exclusive right and responsibility to provide maintenance, repair, and replacement of the roof coverings of the Dwellings. "Roof coverings" shall mean the exterior surface layers of the roofing systems covering the Dwellings as they may be replaced from time to time (including but not limited to shakes, shingles, ceramic and asphalt tile, and tar and gravel surfacing), flashing, scuppers, building paper and felt or other secondary weatherproofing systems, and the plywood substrate but excluding other supporting structural systems upon which these exterior surface coverings and the plywood substrate are attached. The Association shall not be responsible for maintenance, repair, or replacement of skylights or any roof-mounted appliances such as air conditioning equipment or solar devices, including when necessary in connection with repair or replacement of the roof by the Association. Maintenance, repair, or replacement thereof shall be the responsibility of the Owner as provided in Section 10.3.2 ("Roof-Mounted Appliances and Skylights").

10.2.4 Gutters and Downspouts. The Association shall have the exclusive right and responsibility to provide maintenance (including periodic painting as provided in Section 10.2.1 ("Exterior Surfaces") and periodic cleaning), repair, and replacement of the gutters and downspouts of the Dwellings. The foregoing shall not include disposal

of downspout water at grade level, or maintenance, repair, or replacement of foundation drains, if any.

- 10.2.5 Landscaping. The Association shall have the exclusive right and responsibility to provide landscaping and gardening (including irrigation and maintenance and periodic replacement, as the Board deems necessary, of grass, trees, shrubs, and other plants as well as walkways and other landscaping improvements) within the unfenced area of each Lot. The foregoing shall include the right of the Board to remove trees which pose a threat of root intrusion or root damage, create excessive debris, are diseased or unsafe, or otherwise are unsuitable in the reasonable judgment of the Board upon the advice of a qualified arborist.
- 10.2.6 Sidewalks. The Association shall have the exclusive right and responsibility to provide maintenance, repair, and replacement of sidewalks serving the Lots, including the portion thereof that is situated upon any Lot. The foregoing shall include the authority of the Association to regulate the placement of objects upon the sidewalks, including but not limited to flower pots and planters.
- 10.2.7 Certain Deck Surfaces. The Association shall be responsible for resurfacing every five (5) years per manufacturer's specifications of the second story decks of the "Hampton" model homes (street addresses 851, 887, 893, 899, & 907 Princeton, 18102 & 18105 Vassar, and 18017 Stanford.) The foregoing shall apply only to the specified decks as originally built and replacements thereof. The Association shall not otherwise be responsible for maintenance, repair, or replacement of deck surfaces.
- 10.2.8 Construction Defects. The Association is not responsible for repairing or paying for the cost of repair of defects, if any, in the original design and/or construction of the Development.
- 10.3 Owner Responsibility for Lots. Except to the extent that maintenance of any improvement on a Lot is expressly and clearly made the responsibility of the Association, each Owner shall be responsible for the maintenance, repair and replacement of his or her Lot and each and every improvement thereon, keeping the same in a clean, sanitary, workable, and attractive condition. Without limiting the generality of the foregoing:
- 10.3.1 Owner Responsibility for Party Walls and Party Fences. Owner responsibility for Party Walls and Party Fences shall be as set forth in Article 11 ("Party Walls and Party Fences").



- 10.3.2 Roof-Mounted Appliances and Skylights. Each Owner shall be responsible for maintenance, repair, and replacement (when necessary) of any skylight, or any roof-mounted appliance or device as well as any incremental cost that may be incurred by the Association in the performance of its responsibility to maintain, repair, and replace the roof covering, resulting from the presence of such skylight, appliance, or device, as the case may be. Responsibility for such incremental costs shall run with the land and shall be binding upon the Owner and each successor Owner of the Lot.
- 10.3.3 Boundary Fences between Lots and Common Area. Each Owner shall be responsible for maintenance, repair, and replacement of any boundary fences situated on or approximately on the boundary line between a Lot and any portion of the Common Area, except that the Association shall be responsible for periodic painting thereof as provided in Section 10.2.2 ("Painting; Limited Responsibility for Some Components"). Alternatively, the Board, in its discretion may perform such maintenance, repair, or replacement and charge the cost thereof to the Lot Owner as a Reimbursement Assessment.
- 10.3.4 Landscaping within Enclosed Area of Lot; Yard Enclosure. Each Owner shall be responsible to provide landscaping and gardening (including irrigation and maintenance and periodic replacement, when necessary, of grass, trees, shrubs, and other plants) within the enclosed area of his or her Lot, including maintenance, repair, and replacement of the fence, wall, or other barrier enclosing the yard area, except that the Association shall be responsible for periodic painting thereof as provided in Section 10.2.2 ("Painting; Limited Responsibility for Some Components"). Landscaping shall be maintained in a neat and orderly fashion. Weeds and diseased, dead, or dying plants shall be removed and replaced. Lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed.
- 10.3.5 Patios and Tree Roots. Each Owner shall be responsible to provide maintenance, repair, and replacement of any patio serving the Lot, including any portion thereof that encroaches upon the Common Area. Each Owner shall be responsible to periodically inspect any patio serving the Owner's Lot, to take timely steps to prevent shifting or lifting of patio slabs or damage to Lot improvements from Common Area tree roots, including by installing root barriers and removing roots, and to promptly notify and work with the Association if taking such steps will likely jeopardize the health of a Common Area tree, all in accordance with the Association's Tree Root Intrusion Policy.
- 10.3.6 Periodic Inspection; Common Area Trees; Tree Roots. Each Owner shall be responsible for the periodic inspection of his or her Lot and the



improvements thereon, including inspection for tree root intrusion emanating from Common Area trees and each Owner shall take reasonable protective steps to prevent damage to his or her Lot from roots naturally emanating from Common Area trees as more fully set forth in the Association's Tree Root Intrusion Policy, adopted by the Board. Each Owner shall be responsible for notifying the Association and shall cooperate with the Association to prevent damage to a Lot or to improvements thereon in accordance with the Association's Tree Root Policy.

- 10.3.7 Utility Lines. Each Owner shall be responsible for maintenance, repair, and replacement of utility lateral lines (from the utility main line to the Dwelling) that serve his or her Lot exclusively unless the same is the responsibility of a public, private, or municipal utility company. If an Owner claims that a utility line is the responsibility of the Association and the Association undertakes maintenance, repair, or replacement work and it is determined that the line exclusively serves the Lot and is the responsibility of the Owner pursuant to this Section 10.3.7, the cost of such maintenance, repair, or replacement shall be charged to the responsible Lot Owner as a Reimbursement Assessment.
- 10.3.8 Owner Cooperation with Association. Each Owner and Resident shall cooperate with the Board and its agents in the performance of maintenance, repair, or replacement by the Association of any portion of Common Area or the Lots that is the Association's responsibility, including, by way of example and not limitation, painting of the exterior surfaces of the building within the enclosed yard area of the Lot.
- 10.3.9 Owner Performance of Association Responsibility. With prior written authorization of the Board, an Owner may, at the Owner's sole cost and expense, perform maintenance, repair, or replacement that is the Association's responsibility provided such work is performed in accordance with all conditions the Board may stipulate. Performance of such maintenance, repair, or replacement shall not entitle the Owner to a rebate or reduction of any Assessment. The foregoing would include (by way of example and not limitation) painting of a replacement garage door by an Owner at a time between scheduled painting cycles.
- 10.3.10 Compliance With Architectural Provisions. An Owner's right and responsibility for maintaining, repairing or replacing any portions of his or her Lot shall be subject to any applicable provisions of the Governing Documents relating to landscaping and architectural control, including Article 8 ("Architectural Approval").

- 10.4 Concealed Damage. If, in the course of performing maintenance, repairs, or replacement that is the Association's responsibility, the Association or its agents discover damage that is the Owner's responsibility, the responsible Owner(s) shall be promptly notified of the situation and of the time in which required repairs or replacement must be performed in order for the Association to proceed with or complete the work for which the Association is responsible. If, for any reason, the responsible Owner does not perform or arrange for timely performance of required repairs or replacement, and the Board in its reasonable judgment determines that a delay in the performance of such work by the Owner would unreasonably delay or increase the cost of the work for which the Association is responsible, then the Association shall have the right to arrange for the performance of such repairs or replacement and charge the cost thereof to the responsible Owner as a Reimbursement Assessment. Repair or replacement performed by the Association pursuant to this Section 10.4 may be performed on shortened notice to the Owner, notwithstanding the repair period authorized in Section 10.8 ("Board Discretion to Require Maintenance"). If an Owner shall refuse to permit the Association to perform such work, the Association shall have no liability to the Owner or any other person due to the failure of the Owner to perform or permit the performance of such work. The foregoing would include, by way of example and not limitation, the need to perform dryrot repairs to structural components of a Dwelling and/or extermination or pest abatement treatment.
- 10.5 Wood Destroying Organisms. As provided in *Civil Code* section 4780(b), each Owner is responsible for and shall perform maintenance and repair of his or her Lot and Dwelling (other than those portions thereof that are the responsibility of the Association, as provided in Section 10.2 ("Association Responsibility for Lots")) occasioned by the presence of wood-destroying pests or organisms, including responsibility for abatement. Without limiting the generality of the foregoing, every Owner and Resident shall be responsible for taking reasonable measures to prevent conditions that may cause such damage, including but not limited to use of proper spacers under planters and other objects that may trap moisture, stacking of firewood on racks, and prompt removal of leaves, dirt, and other debris and may be liable to the Association for the cost of maintenance, repair, or replacement due to damage, including the presence of mold, decay, or dryrot, as provided in Section 10.10 ("Owner Liability to Association for Negligent Damage") or to others as provided in Section 10.11 ("Owner Liability to Other Lot Owners or Residents").
- 10.6 Authority for Entry of Lot. The Association or its agents shall have the right to enter any Lot whenever such entry is necessary, in the Board's discretion, in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible or which it is authorized to perform. Such entry shall be made with as little inconvenience to the Residents as practicable and only upon reasonable advance written notice of not less than forty-eight (48) hours, except that in emergency situations notice shall be given

as the situation reasonably permits; provided, however, that notice shall not be required for routine maintenance by the Association of landscaping upon the non-enclosed portion of the Lot.

- 10.7 Acceptance of Condition of Lot. Each Owner, by acceptance of a deed to a Lot, accepts responsibility for the condition of the Lot including but not limited to existing defects, unresolved architectural violations of any predecessor Owner, and failure of a predecessor Owner to perform maintenance, repairs, or replacement upon the Lot or any encroachments upon the Common Area that are the responsibility of the Lot Owners, and the Association shall be entitled to exercise all of its enforcement powers with respect to the obligations of Lot Owner in connection with such conditions, whether or not such conditions were disclosed to the Owner. The foregoing shall not be deemed to waive the responsibility of the Association for the performance of maintenance, repair, or replacement upon the Lot as provided in Section 10.2 ("Association Responsibility for Lots").
- 10.8 Board Discretion to Require Maintenance. The Board shall have the discretion to determine whether any maintenance, repair, or replacement, which is the responsibility of an Owner, is necessary to preserve the appearance and value of the property within the Development or any portion thereof and may notify an Owner of the work the Board deems necessary. In the event an Owner fails to perform such work within sixty (60) days after notification by the Board to the Owner, the Board may, after written notice to the Owner and the right of a hearing before the Board pursuant to Section 15.12 ("Hearing Called by the Board; Executive Session; Open Meeting"), cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.
- 10.9 Limitation of Association Liability. Except for the performance of its obligations as expressly provided in Section 10.2 ("Association Responsibility for Lots"), the Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any improvement thereon, except to the extent that the need for such maintenance, repair, or replacement results from the willful misconduct or gross negligence of the Association, its employees, contractors, or agents.
- 10.10 Owner Liability to Association for Negligent Damage. In the event the need for any maintenance, repair, or replacement performed by the Association is caused by the willful or negligent act or omission of an Owner or a Resident, a member of his or her household, pets, tenants, invitees, or guests, the cost of such maintenance, repair, or replacement not covered by insurance, including any applicable insurance deductible and the cost of materials, labor, supplies, and services shall be charged to, and paid by, the Owner of the Lot in the form of a Reimbursement Assessment.

- 10.11 Owner Liability to Other Lot Owners or Residents. In the case of damage to a Lot or Residence or its contents arising or allegedly arising from another Lot or the conduct of the Owner or Resident of another Lot (for example and not by way of limitation, damage to a Residence resulting from water leaking from another Lot or termite damage from an adjoining Dwelling), if any affected party or their insurers should assert claims against the Owner or Resident of another Lot to recover damages, any such claims shall not alter the obligation of each Lot Owner as provided in this Declaration to maintain, repair, and replace their respective Lots and Residences; to carry insurance; and to perform and/or pay for repairs or reconstruction of their Lot and Residence in the event of casualty. Moreover, any such claims shall not affect the authority of the Board to enforce a Lot Owner's obligations with respect to his or her own Lot or Residence under the Declaration and shall not obligate the Association or the Board to intervene in any such claims or disputes between Lot Owners or Residents.

## **ARTICLE 11            PARTY WALLS AND PARTY FENCES**

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- 11.1 Party Wall and Party Fence Defined. Party Wall or Party Fence shall mean each wall or fence built as part of the original construction of the Dwellings within the Development and placed on or approximately on the boundary line between the Lots. Party Walls shall include the common foundation, common framing, common insulation, and the point where the roof joins or abuts the neighboring roof. Fences placed on or approximately on the boundary between a Lot and any portion of the Common Area do not constitute "Party Fences" and responsibility for such fences shall be as provided in Section 10.3.3 ("Boundary Fences between Lots and Common Area").
- 11.2 General Rules of Law to Apply. Unless and to the extent they conflict with the provisions of the Declaration, the general rules of law regarding party walls and boundary fences and liability for property damage due to negligence or willful acts or omissions shall apply as provided in this ARTICLE 11.
- 11.3 Sharing of Maintenance, Repair, and Replacement Costs. The cost of maintenance, repair, and replacement of a Party Wall or Party Fence (other than those portions thereof that are the responsibility of the Association, as provided in Section 10.2 ("Association Responsibility for Lots")) shall be shared by the Owners pursuant to the terms of any written agreement entered into between the Owners thereof for that purpose. In the absence of such a written agreement, such costs shall be shared equally by the Owners thereof; provided that if a Party Wall or Party Fence is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall or Party Fence may restore it, and if the other Owners thereafter make use of the Party Wall or Party Fence, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners to call for a larger

contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

- 11.4 Weatherproofing. Notwithstanding any other provision of this Article 11, an Owner who by his or her negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- 11.5 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article 11 shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.
- 11.6 Owner Cooperation. Owners of Lots that share Party Walls and/or Party Fences shall cooperate with each other to effect work that necessarily affects both Lots, including by way of example and not limitation, abatement of pests and wood destroying organisms or seismic upgrades.
- 11.7 Party Wall Disputes. Party Walls and Party Fences are not Common Area and are not the responsibility of the Association (except to the extent provided in Section 10.2 ("Association Responsibility for Lots"). Any dispute between Owners concerning a Party Wall or Party Fence, or otherwise under the provisions of this Article 11, shall be subject to the alternative dispute resolution provisions in Section 15.17 ("Alternative Dispute Resolution Before Initiating Lawsuit").

## **ARTICLE 12        INSURANCE**

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- 12.1 Insurance Coverage to be Maintained by Association. The Association shall procure and maintain, as a common expense of all Owners, the types of insurance described in Section 12.2 ("Hazard Insurance to be Maintained by Association"), Section 12.3 ("Liability Insurance to be Maintained by Association"), and Section 12.4 ("Other Insurance to be Maintained by Association"), if and to the extent such insurance, with the coverages described below, is available at a reasonable premium cost.
- 12.2 Hazard Insurance to be Maintained by Association. The Association shall maintain a blanket policy of fire and extended coverage insurance covering (i) all of the Common Area and all furnishings, equipment, and personal property owned by the Association or owned in common by all of the Owners, and (ii) the improvements upon the Lots, but excluding all personal property within any Lot. The limits of coverage shall be equal to one hundred percent (100%) of the full insurable replacement costs exclusive of land, foundation, excavations, and other items normally excluded from coverage. The policy may contain a reasonable deductible and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals the replacement cost.

- 12.2.1 Policy Endorsements. The policy may include such endorsements as the Board, in its discretion, shall determine based on the character and replacement cost of the Common Area and Lot improvements from time to time, such as:
- (i) an agreed amount endorsement or its equivalent;
  - (ii) an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or their equivalent;
  - (iii) an extended coverage endorsement;
  - (iv) coverage for costs of demolition;
  - (v) glass coverage;
  - (vi) coverage for loss or damage as a result of theft, vandalism, malicious mischief, boilers, pressure vessels or pressure pipes, sprinkler leakage, windstorm, or water damage;
  - (vii) special form endorsement;
  - (viii) a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild; and
  - (ix) coverage for the payment of Assessments attributable to any damaged Lot during any period of repair or reconstruction.
- 12.2.2 Named Insureds. Such blanket policy shall name as separately protected insureds the respective Owners, their Mortgagees, and the Association as their respective interests may appear and shall contain a cross-liability endorsement and waiver of subrogation as to any and all claims against the Association, its officers directors, the Owners and the agents of any of them, and a waiver of all defenses based upon acts of the insureds or the existence of co-insurance.
- 12.2.3 Property Not Covered by Blanket Policy. Such blanket policy shall not include coverage for the personal property, furniture, furnishings, and decorations contained within any Lot.
- 12.2.4 Earthquake Insurance/ Earthquake Reserve Account. The Association may, but shall not be obligated to, carry earthquake insurance with such coverage and deductibles as the Board may from time to time



determine and/or may maintain an earthquake reserve account either in addition to or instead of earthquake insurance. Prior to procuring and/or continuing in force any policy of earthquake insurance, a vote of the Owners shall be conducted by secret ballot pursuant to *Civil Code* section 5100. Unless a majority of the total voting power of the Owners shall approve obtaining such policy, the board shall not be obligated to procure or continue in force earthquake insurance. Such vote by the Owners shall include authorizing any increase in the Annual Assessment or any Special Assessment as may be necessary to pay for any policy of earthquake insurance that may be approved by the Owners. If an earthquake reserve account is established or maintained, such funds shall be accounted for in the same manner as other reserve accounts of the Association and may be used for upgrading or retrofitting structural components either prior to or after the occurrence of earthquake damage.

- 12.3 Liability Insurance to be Maintained by Association. The Association shall maintain comprehensive general liability insurance insuring the Association, its officers and directors, and the Owners against any liability incident to ownership or use of the Common Area or the portion of each Lot that is maintained by the Association, with limits of liability to be set by the Board.

- 12.3.1 Scope of Coverage. Such liability insurance policy shall (i) insure against bodily injury, death, or property damage occurring in, on or about any portion of the Common Area or the portion of each Lot that is maintained by the Association and (ii) include water damage liability (if obtainable), hired and non-owned vehicle coverage, theft and collision coverage, liability for property of others, elevator liability coverage, off-premises employee coverage, and such other risks as are customarily covered in townhouse projects. Such liability insurance shall not cover the personal bodily injury and property damage exposure of an Owner within his or her Lot or in any other Lot or upon the Common Area resulting from the negligence of the Owner.

- 12.3.2 Other Provisions. Such liability insurance policy.

- (i) shall contain a waiver of subrogation as to claims against the Association, the Board members, the Owners and member of the Owner's family who reside with such Owner, except in cases of arson or fraud;
- (ii) shall contain an agreed amount endorsement suspending coinsurance provisions and shall contain a waiver of the defense of invalidity on account of the conduct of any Owner over which the Board has "no control;"



- (iii) shall provide that it shall not be cancelled or substantially modified without at least thirty (30) days written notice to all the insureds and Mortgagees;
- (iv) shall provide that in no event shall the insurance be brought into contribution with insurance purchased individually by Owners or their Mortgagees;
- (v) shall exclude policies obtained by the individual Owners from consideration under any "no other insurance" clause; and
- (vi) shall contain a provision requiring the insurer to defend any suit against any insured, even if the allegations are fraudulent, but authorizing the insurer to make such investigation and settlement of any claim or suit within the policy limit as it deems expedient.

#### 12.4 Other Insurance to be Maintained by Association.

- 12.4.1 Directors' and Officers' Insurance. The Association shall maintain directors' and officers' liability insurance with limits to be set by the Board but in no event less than those set forth in *Civil Code* section 5800, and containing a cross-liability endorsement and waiver of subrogation as to the Association, the officers, and the directors, and the agents and employees of any of them. Coverage for prior acts, to the extent obtainable, shall be included.
- 12.4.2 Workers Compensation Insurance. The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws and may carry such insurance at any time as determined by the Board.
- 12.4.3 Fidelity Bond. The Association shall maintain a standard fidelity bond covering dishonest acts on the part of officers and directors of the Association, the manager, and any employees or volunteers who are responsible to handle funds of the Association. Such bond shall name the Association as obligee, shall be written in an amount which shall be determined by the Board, and shall contain a waiver of any defense based on the exclusion of persons serving without compensation.
- 12.4.4 Other Insurance. The Association may maintain at any time and from time to time any other insurance, including but not limited to flood insurance, and bonds as the Board may from time to time deem necessary or desirable.

12.5 Insurance to be Maintained by Owner. Owners shall have the following obligations and rights to carry individual insurance:

12.5.1 HO6 Owner's Policy. Each Owner shall carry an "HO6 Owners Policy" or the equivalent and a policy or policies of public liability insurance covering.

- (i) the Owner's individual liability for damage to property or injury to person of others occurring within the Lot, in an amount not less than One Hundred Thousand Dollars (\$100,000) for each occurrence or in such other amount as the Board may establish from time to time by Rule,
- (ii) property damage to contents and personal property within the Owner's Lot in such amount as the Owner shall determine is adequate but not less than Seventy Thousand Dollars (\$70,000),
- (iii) loss assessment coverage in an amount not less than Fifty Thousand Dollars (\$50,000), and
- (iv) insurance to pay the deductible under the hazard insurance policy carried by the Association pursuant to Section 12.2 ("Hazard Insurance to be Maintained by Association") in an amount not less than the deductible under that policy or such amount as the Owner shall determine is adequate.

Upon request from the Board, each Owner shall provide evidence of such insurance annually.

12.5.2 "Tenant Improvement" or "Improvements/Betterment" Insurance for Upgrades. If the insurance maintained by the Association does not cover Owner upgrades or additions, each Owner shall be entitled to separately insure his or her Lot and any improvements made by the Owner to the Lot; *provided, however,* such insurance shall be limited to the type and nature of coverage commonly known as "tenant improvements" coverage or an "improvements/ betterment" endorsement (HO-32) under an HO-6 policy. Any such policy shall contain a waiver of subrogation of claims against the Association, the Board, and the other Owners and the agents of each of them, with respect to any loss covered by such insurance, whether or not caused by negligence or by breach of any agreement by such person. Any Owner obtaining such separate insurance shall deposit with the Board a duplicate copy or a certificate of insurance of each such policy.

12.5.3 Overlapping Coverage. No Owner shall obtain or maintain any policy of insurance that reduces the amount of coverage under any policy

obtained or maintained by the Association pursuant to Section 12.2 ("Hazard Insurance to be Maintained by the Association"), Section 12.3 ("Liability Insurance to be Maintained by Association"), or Section 12.4 ("Other Insurance to be Maintained by Association"). If any Owner violates the provisions of this Section 12.5.3, any diminution in insurance proceeds otherwise payable to the Association that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance and each Owner hereby assigns to the Association the proceeds of any such policy to the extent any such decrease in proceeds in fact occurs (such proceeds to be applied pursuant to the Declaration as if produced by the Association's coverage). Such Owner will be liable to the Association to the extent of any diminution and the Association shall levy a Reimbursement Assessment against such Owner in the amount of such diminution.

12.5.4 HO4 Renter's Policy. Each Owner who rents or leases a Lot shall require the tenant to purchase and maintain in force during the tenancy an "HO4 Renters Policy" or the equivalent with a minimum personal liability limit of \$300,000. Upon request from the Board, each Owner shall provide evidence of such insurance annually.

12.5.5 Other Owner-Maintained Insurance. Each Owner shall be responsible, at his or her sole cost and expense, to obtain such other insurance as the Owner shall determine is adequate to cover such other risks as the Owner shall determine, including but not limited to loss of use or loss of rental income.

12.5.6 No Obligation of Association. If an Owner fails to obtain any insurance he or she is obligated or permitted to obtain pursuant to this Declaration, nothing in this Declaration shall be construed to impose any obligation whatsoever on the Association to insure that which the Owner does not insure. The right of the Board to request evidence of insurance that an Owner is obligated to carry pursuant to this Declaration shall not be deemed to impose a duty on the Board or the Association to request such evidence of insurance or impose on the Association any liability to any person arising or claimed to arise out of any action or inaction by the Board, the Association or anyone acting on the Association's or the Board's behalf with respect to verifying any Owner's compliance with the Owner's obligation to carry insurance.

12.6 Insurance Proceeds. Proceeds of all insurance policies owned by the Association shall be received by the Association and shall be distributed to the Association, the Owners, and their Mortgagees subject to the provisions of the Declaration as their interest may appear; *provided, however*, that whenever repair or reconstruction is required, the proceeds of any insurance received by

the Association as a result of any loss shall be applied to such repair or reconstruction.

**12.7 Responsibility for Payment of Deductible.**

**12.7.1 Damage to Common Area.** Subject to the provisions of Section 10.10 ("Owner Liability to Association for Negligent Damage"), in the event of damage to the Common Area that is covered by the hazard insurance policy maintained by the Association pursuant to Section 12.2 ("Hazard Insurance to be Maintained by Association"), the deductible shall be paid by the Association.

**12.7.2 Damage to Lot - Other than Earthquake.** In the event of damage to a Lot that is covered by the hazard insurance policy maintained by the Association pursuant to Section 12.2, the deductible under coverage other than earthquake coverage shall be paid by the Owner of the damaged Lot. If more than one (1) Lot is damaged in a single casualty, the amount of the deductible shall be allocated among the Lot Owners in the same proportion as the amount of insurance proceeds received by each Lot Owner under the policy. The Association shall not be obligated to advance the cost of the deductible on account of damage to a Lot; however, if the Association should advance the cost of such a deductible, the Board shall levy a Reimbursement Assessment against the Owner of the damaged Lots in such amount.

**12.7.3 Damage to Lot - Earthquake.** In the event of damage to a Lot that is covered by any earthquake insurance policy maintained by the Association pursuant to Section 12.2.4 ("Earthquake Insurance/Earthquake Reserve Account"), the deductible shall be paid by the Association and (to the extent the deductible is not paid with funds in the Earthquake Reserve Account, if any) the Board shall impose a Reimbursement Assessment against all Lot Owners and all Lots in the amount of such deductible, which Reimbursement Assessment shall be allocated equally among all Lots.

**12.7.4 Tort Damages.** Nothing in this Section 12.7 shall be deemed to affect any party's right to recover the amount of any deductible paid by such party from any other person responsible for the loss under tort or other theories of liability.

**12.8 Insurance Carriers.** All insurance policies carried by the Association shall be written by companies qualified to do business in the State of California but need not be admitted in California.

- 12.9 Annual Review of Policies. The limits and coverage of all insurance policies carried by the Association shall be reviewed at least annually by the Board and increased or decreased in its discretion.
- 12.10 Coverage Not Available; Disclaimer. In the event any insurance policy or any endorsement listed in Section 12.2 ("Hazard Insurance to be Maintained by the Association"), Section 12.3 ("Liability Insurance to be Maintained by Association"), and Section 12.4 ("Other Insurance to be Maintained by Association"), if for any reason is not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage, as specified in the Bylaws. The Association, and its directors and officers, shall have no liability to any Lot Owner or Mortgagee if, after good faith effort, it is unable to obtain or maintain the insurance required pursuant to Section 12.2, Section 12.3, and Section 12.4 because the insurance is no longer available or, if available, can be obtained or maintained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any Special Assessment or increase in the Annual Assessment needed to fund the insurance premiums.
- 12.11 Copies of Policies. Copies of all insurance policies (or certificates thereof showing that premiums have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.
- 12.12 Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to file all claims and to negotiate and agree on the value and extent of any loss under any policy carried by the Association pursuant to Section 12.2 ("Hazard Insurance to be Maintained by the Association"), Section 12.3 ("Liability Insurance to be Maintained by Association"), and Section 12.4 ("Other Insurance to be Maintained by Association"). The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.
- 12.13 Premiums. The premiums for any insurance obtained by the Association shall be a common expense of the Association and shall be paid for out of the operating fund of the Association.

## **ARTICLE 13            DAMAGE OR DESTRUCTION; CONDEMNATION**

- 13.1 Replacement or Repair of Association Property. In the event of damage to or destruction of the Common Area or other property of the Association or any part thereof, the Association shall repair or replace the same from the insurance proceeds payable to it by reason of such damage or destruction. If any such damage or destruction was insured against and the insurance proceeds, together

with reserve funds allocated for replacement of the damaged or destroyed improvement, are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may levy a Special Assessment against the Members of the Association up to the maximum amount permitted without a member approval vote as provided in Section 9.8.2 ("Permitted Amount of Special Assessments") to cover the cost of the repair or replacement not covered by the insurance proceeds.

13.2 Rebuilding or Repair of Improvements on a Lot. If any Lot or any improvement on a Lot is damaged or destroyed by fire or other casualty, the Owner(s) of any such Lot shall repair or rebuild the structures upon such Lot and restore such Lot to its condition prior to the damage or destruction, or to such other condition as shall have been approved in advance by the Board pursuant to Article 8 ("Architectural Approval"). The available insurance proceeds shall be paid to the Owner or Owners of such Lot, or the Mortgagee thereof, as their respective interests appear, and such Owner(s) or Mortgagee shall use the same to rebuild or repair such Lot to its condition prior to the damage or destruction, or to such other condition as shall have been approved in advance by the Board pursuant to Article 8. Alternatively, to the extent there are insurance proceeds available from an insurance policy maintained by the Association, the Association may administer the reconstruction of improvements upon any damaged Lot and in that event the Owner(s) of the affected Lot(s) shall cooperate fully with the Association. In the event the insurance proceeds are insufficient to complete such work, the Lot Owner(s) shall pay such additional sums as may be necessary to complete such rebuilding and repair. Repair or rebuilding shall be commenced and completed within the times specified in Section 8.12 ("Commencement of Approved Work") and Section 8.13 ("Completion; Extension of Deadline"). In the case of total or substantially total destruction of a Dwelling, if restoration is not commenced within one (1) year after the occurrence of the destruction, the Board may require that the foundation and other installations be removed and the Lot restored to a safe, orderly, and natural condition.

13.3 Condemnation of Common Area. If at any time all or any portion of any Common Area, or any interest therein, shall be taken for any public or quasi-public use under any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the entire compensation or award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Development, shall be distributed proportionately to all Owners and their Mortgagees as their interests appear according to the respective fair market values of their Lots immediately prior to the time of condemnation as determined by an independent appraisal; *provided, however*, that in the case of partial condemnation, if the cost of obtaining such appraisal and effecting such distribution is likely to amount to more than fifty percent (50%) of the condemnation proceeds, such proceeds may be paid to and retained by the Association and shall be used in the manner determined by the Board, provided

that such use shall not be inconsistent with the purposes of the Association. The Association shall represent the interests of all Owners in any proceedings relating to such condemnation to the extent such Owners have any interest in the Common Area.

- 13.4 Condemnation of Lots. If an entire Dwelling or Lot, or so much thereof as to render the remainder unfit for use as a Dwelling, is condemned or taken for a public or quasi-public use pursuant to any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the Owner's membership in the Association shall terminate as of the last day of the month in which the condemner obtains the right to possession, or upon Owner's vacating the premises, whichever occurs last. If only a portion of such Dwelling or Lot is taken and the remainder is fit for use as a Dwelling, the Owner shall continue to be a Member of the Association. In any condemnation action involving an Owner's Dwelling or Lot, the Association shall have the right to seek compensation for any damages incurred by the Association.
- 13.5 Appraisals. Where the provisions of this Article 13 require an independent appraisal of property, said appraisal shall be made by an experienced and qualified real estate appraiser certified in the State of California, which appraiser shall be selected by the Board.

## **ARTICLE 14            RIGHTS OF MORTGAGEES**

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- 14.1 Conflict. Notwithstanding any contrary provision contained elsewhere in the Governing Documents, the provisions of this Article 14 shall control with respect to the rights and obligations of Mortgagees specified in this Article 14.
- 14.2 Institutional Mortgagee Defined. "Institutional Mortgagee" shall mean (i) a First Mortgagee that is a bank, a savings and loan association, an insurance or mortgage company, or other entity or institution chartered under or regulated by any federal and/or state law; (ii) an insurer or governmental guarantor of a First Mortgage including but not limited to the Federal Housing Authority and the Veterans Administration; or (iii) the State of California.
- 14.3 Eligible Holder Defined. "Eligible Holder" shall mean any Institutional Mortgagee who has delivered a written notice to the Association which contains its name and address and the number or address of the Lot encumbered by the Mortgage and requests that the Association delivers a written notice to it of any or all of the events specified in Section 14.10 ("Notices to Eligible Holders").
- 14.4 Notices to Mortgagees. The Association shall have no obligation to any Mortgagee that does not notify the Association of its security interest and current address as provided in Section 14.3 ("Eligible Holder Defined"). All notices or other communications by the Association to any Mortgagee made pursuant



hereto shall be in writing and shall be deemed properly delivered, given or served when (i) personally delivered against receipted copy; or (ii) mailed by certified or registered mail, postage prepaid, in either case (i) or (ii) to the Mortgagee at its address as provided by the Mortgagee pursuant to Section 14.3, or if the Mortgagee has not so notified the Association, at the Mortgagee's address identified in the chain of title. Any Mortgagee who receives a written request from the Association for Mortgagee approval of an action by the Association, and who does not deliver or have its response postmarked within thirty (30) days after the date of the written notice or request shall be deemed to approve the action.

- 14.5 Mortgages Permitted; Lender Fees. Any Lot Owner may encumber his or her Lot with a Mortgage. No Mortgagee fees of any kind shall be chargeable to the Association.
- 14.6 Intention to Conform to Mortgagee Requirements. It is intended that the Declaration, the Bylaws, and the Articles, and the Development in general, shall meet the requirements necessary to purchase, guarantee, insure, or subsidize any mortgage of a Lot in the Development by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Corporation or any other or successor institution(s) serving the same or similar function. The Board is authorized, but not obligated, to take any action or adopt any resolution required by any Mortgagee to bring the Declaration or the Bylaws or the Development into conformity with the requirements of any of these entities or agencies.
- 14.7 Liability for Unpaid Assessments. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the First Mortgage (except upon a voluntary conveyance to the Institutional Mortgagee) or by foreclosure shall take the property free of any claims for unpaid assessments or charges against the Lot which accrue prior to the acquisition of title to the Lot by the First Mortgagee, except claims for a pro rata allocation of such Assessments or Additional Charges to all Lots including the mortgaged Lot, and except for Assessment liens recorded prior to the Mortgage.
- 14.8 Reserve Fund. The Association shall maintain reserve funds in a reserve account which shall be sufficient to pay for maintenance, repair, and periodic replacement of Common Area improvements that the Association is obligated to maintain. This reserve fund shall be funded by Annual Assessments payable in installments rather than by Special Assessments; *provided, however*, that this provision shall not be deemed to limit the power of the Association to levy any type of assessment or charge authorized by this Declaration.
- 14.9 Professional Management. The approval of sixty-seven percent (67%) of the Total Voting Power of the Association and fifty-one percent (51%) of the Eligible Holders, based on one (1) vote for each First Mortgage owned, shall be required to assume self-management of the Development, if professional management of the Development has been required by an Eligible Holder at any time.

14.10 Notices to Eligible Holders. Upon written request, including the name and address of the Eligible Holder and the address or Lot number of the Lot on which it holds a First Mortgage, an Eligible Holder is entitled to timely written notice of:

- (a) Any condemnation loss or casualty loss which affects either a material portion of the Development or of the Lot on which the Eligible Holder holds a First Mortgage;
- (b) Any delinquency in the payment of Assessments or charges owed by the Owner of a Lot which is subject to a First Mortgage held by the Eligible Holder if the delinquency is not cured within sixty (60) days after its due date;
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposal to take any action specified in this Article 14;
- (e) Any default by an Owner-mortgagor of a Lot in the performance of his or her obligations under this Declaration or the Bylaws which is not cured within sixty (60) days.

14.11 Disclosures by Lenders. Any Mortgagee can furnish information to the Association, Board, or Members concerning the status of any Mortgage.

14.12 Inspection of Books and Records. Upon request, any Owner or First Mortgagee shall be entitled to inspect the books, records, and financial statements of the Association and the Governing Documents and any amendments thereto during normal business hours or under other reasonable circumstances.

14.13 Audited Financial Statements. The Association shall prepare a financial statement for the immediately preceding fiscal year and furnish the same within one hundred twenty (120) days after written request from any Institutional Mortgagee.

14.14 Mortgagees' Right to Pay Taxes and Insurance Premiums. First Mortgagees of individual Lots may, jointly or separately, pay taxes or other charges which are in default and which may become or have become a charge against the Common Area, or secure new hazard insurance coverage on the lapse of a policy for such Common Area. First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association and, on demand; the Association shall execute an agreement in favor of all First Mortgagees reflecting entitlement to reimbursement.

14.15 Mortgagee Consent for Termination of Development. Except as provided by statute in the case of condemnation or substantial loss to Lots and/or the Common Area, any decision, by act or omission, to abandon or terminate the legal status of the Development as a planned development shall require:

- (a) The approval of sixty-seven percent (67%) of the Eligible Holders, based on one (1) vote for each First Mortgage owned, if the decision to terminate the legal status is a result of substantial destruction or a substantial taking in condemnation of the property; or
- (b) The approval of sixty-seven percent (67%) of the Total Voting Power of the Association and sixty-seven percent (67%) of the Eligible Holders, based on one (1) vote for each First Mortgage owned, if abandonment or termination of the planned development is for a reason other than that stated in Section 14.15(a), above.

14.16 Other Actions Requiring Mortgagee Consent. Except as provided by statute in the case of condemnation or substantial loss to Lots and/or Common Area, unless sixty-seven percent (67%) of the Institutional Mortgagees, based on one (1) vote for each First Mortgage owned, or sixty-seven percent (67%) of the Owners have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for the other public purposes consistent with the intended use of the Common Area by the Development shall not be deemed a transfer within the meaning of this clause;
- (b) By act or omission change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of Lots, the exterior maintenance of the Lots, the maintenance of Party Walls, or the upkeep of lawns, plantings or other landscaping in the Project;
- (c) Fail to maintain fire and extended coverage insurance on insurable portions of the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost;
- (d) Use hazard insurance proceeds for losses to any Development property (whether to Lots or Common Area) for other than the repair, replacement or reconstruction of the Development property.

14.17 Effect of Amendments. No amendment to the Declaration, the Bylaws, or the Articles of Incorporation shall affect the rights of any Mortgagee under any

Mortgage made in good faith and for value and recorded before the recordation of such amendment unless the Mortgagee either joins in the execution of the amendment or approves it in writing as part of such amendment.

- 14.18 Mortgage Protection. No breach of any of the covenants, conditions and restrictions nor the enforcement of any lien provisions contained in this Declaration shall render invalid the lien of any First Mortgage made in good faith and for value on any Lot, but all of the covenants, conditions, and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure, trustee's sale or otherwise.

## **ARTICLE 15            ENFORCEMENT; NOTICE; HEARINGS**

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- 15.1 Violations as Nuisance; Owner Standing to Enforce. Every act or omission constituting or resulting in a violation of any of the provisions of the Governing Documents shall be deemed to constitute a nuisance and, in addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association or its Officers or Board of Directors or by any Owner; *provided, however,* that the Board shall not be obligated to take action to abate or enjoin a particular violation if, in the exercise of its discretion, the Board determines that acting to abate or enjoin such violation is not likely to foster or protect the interests of the Association and its Members as a whole. Further, nothing in the Governing Documents shall be deemed to impose upon the Association, the Board, or the officers, employees, or agents of the Association a duty to intervene in any physical dispute or altercation or any criminal or alleged criminal activity other than to notify law enforcement officials.
- 15.2 Violation of Law is a Violation of the Declaration. Any violation of a state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupancy, or use of any property within the Development is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.
- 15.3 Owner Responsibility for Conduct and Damages. Each Owner shall be fully responsible for informing members of his or her household, Contract Purchasers, tenants, invitees, and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, and any Governing Document violation of any of them, and for any damage to the Development or the Association resulting from the negligent or intentional conduct of any of them or the conduct of any pet belonging to any of them. If a Lot is owned jointly by two (2) or more persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall be joint and several; that is, each co-Owner individually shall be fully liable and responsible and all co-Owners collectively shall be fully liable and responsible. The foregoing provisions of this Section 15.3 are in addition to and shall not limit the generality

of the provisions of Section 6.3.2 ("Indemnification Regarding Business Activity"); Section 6.4 ("Family Day Care Homes"); Section 6.5 ("Residential Care Facilities"); Section 6.10 ("Animals"); Sections 7.6 ("Association as Third Party Beneficiary"); Section 7.7 ("Indemnification Regarding Tenant's Actions"); and Section 8.18 ("Disclaimer of Liability").

- 15.4 No Avoidance. No Owner may avoid the burdens or obligations imposed by the Governing Documents through non-use of any Common Area facilities or by abandonment of his or her Lot.
- 15.5 Enforcement Rights Are Cumulative; Self Help. The Association, its Directors, Officers, or agents shall have the right to enforce any and all provisions of the Governing Documents by any proceeding at law or in equity, or, with respect to action by the Association, through the use of such other remedies (including self-help remedies that do not breach the peace or otherwise violate applicable law or this Declaration) as are available and deemed appropriate by the Board. Each remedy provided is cumulative and not exclusive.
- 15.6 Injunctions. Except for the non-payment of any Assessment levied pursuant to the provisions of this Declaration, it is hereby declared (i) that a remedy at law to recover damages for a default in the performance of any of the terms and provisions of any of the Governing Documents or for the breach or violation of any such provisions is inadequate and (ii) that the failure of any Owner, Contract Purchaser, member of his or her household, tenant, invitee, guest, or household pets or any other occupant or user of any of the property within the Development to comply with any provision of the Governing Documents may be enjoined in any judicial proceedings initiated by the Association, its Officers or Board of Directors, or by any Owner or by their respective successors in interest.
- 15.7 Limitation on Association's Disciplinary Rights. The Association shall not have the power and authority to cause a forfeiture or abridgment of an Owner's right to the full use and occupancy of his or her Lot as the result of the failure by such Owner, members of his or her household, Contract Purchaser, tenants, invitees, guests or pets to comply with any provision of the Governing Documents, except where such forfeiture or abridgment is the result of the judgment of a court of competent jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or sale under private power of sale for failure of such Owner to pay Assessments levied by the Association pursuant to this Declaration and except to the extent of the Association's rights pursuant to Section 9.19 ("Assignment of Rents as Security for Payment"). The provisions of this Section 15.7 shall not affect the Association's right to impose other sanctions including imposing Enforcement Assessments as provided in Section 15.8 ("Imposing Sanctions").
- 15.8 Imposing Sanctions. Upon an explicit finding and for reasons specified by the Board following a hearing called by the Board and conducted in accordance with this Article 15, the Board shall have the power to impose sanctions on a Member

who is in default in the payment of any Assessment or Additional Charge levied by the Board or is found to be in violation of any provision of the Governing Documents. Sanctions may include loss of good standing, suspension of other rights, and/or monetary penalties (fines), as described below.

- 15.8.1 Loss of Good Standing. The Board may suspend a Member's Good Standing for so long as the Member remains in default of such payment or until the violation is remedied. When a Member is not in Good Standing, his or her Association voting rights shall be suspended and the Member shall be disqualified from serving on the Board.
- 15.8.2 Suspension of Other Rights. The Board may suspend a Member's or a Resident's right to use Common Area recreational facilities for so long as a Member remains in default of such payment, or for such period as may be specified by the Board if the violation involves misbehavior related to Common Area recreational facilities.
- 15.8.3 Monetary Penalties. The Board may impose monetary penalties or fines as Enforcement Assessments in accordance with a schedule of fines adopted by the Board and distributed to the Members pursuant to *Civil Code* section 5850. An increase in the maximum fine for any single violation shall be deemed a Rule change pursuant to *Civil Code* section 5310.
- 15.8.4 Monthly Sanctions for Continuing Violations. In the case of a continuing violation, such as an uncorrected architectural violation, where an Owner fails to remedy the violation after notice from the Board to do so, the Board may impose sanctions, including monetary penalties, such sanctions to remain in effect for a period of one (1) month or until the continuing violation is remedied, whichever occurs sooner. (By way of example and not limitation, a violation in the nature of parking every day in a prohibited parking space would *not* constitute a "continuing violation" but each instance would constitute a separate violation.) If the continuing violation has not been remedied within the one (1) month period, the Board may impose separate and successive sanctions for the continuing violation, provided the Board conducts a separate hearing, not more frequently than once a month, before imposing each successive sanction. The Board may limit the scope of such hearing to facts and circumstances occurring subsequent to the previous hearing relating to the subject continuing violation.
- 15.8.5 Reimbursement Assessment Not a Sanction. The imposition of a Reimbursement Assessment pursuant to the Declaration does not constitute and shall not be deemed to be a sanction.

- 15.9 Investigation of Complaints. Upon receipt of a written complaint from an Owner or a Resident, the Board shall conduct an investigation of the allegations in the complaint and shall make relevant findings upon which the Board shall base a decision to pursue or not pursue the matter. If the Board decides not to pursue a matter it shall notify the complaining party in writing stating the reason(s) for its decision.
- 15.10 Written Notice of Violation. If the Board determines, whether on its own initiative or pursuant to a written complaint, that a violation of the Governing Documents exists or has occurred, it shall notify the responsible Owner(s) by written notice in compliance with Section 15.11 ("Notices: Content, Delivery").
- 15.11 Notices: Content, Delivery. Any notice of violation required or given under this Article 15 shall be in writing and shall comply with *Civil Code* section 5855 as to content and time of service and with *Civil Code* section 4040 as to method of service.
- 15.11.1 Content of Notice of Violation. If no specific statutory requirements apply, any notice given by the Association to a Member shall, at a minimum, set forth a brief description of the act or omission constituting the alleged violation of the Governing Documents; a reference to the specific Governing Document provision or provisions alleged to have been violated; if applicable, a statement that the Member may request a hearing by the Board; the date, time, and location of any hearing called by the Board; and any sanction, disciplinary action, or other enforcement action being contemplated by the Board.
- 15.11.2 Delivery of Notice. If no specific statutory requirements apply, any notice may be given by any method reasonably calculated to give actual notice to the affected Member or the Association, as the case may be; *provided, however*, that (i) if notice is given by mail, it shall be sent postage prepaid by first-class mail and/or by certified mail return receipt requested; (ii) if given by the Association to a Member, it shall be sent to the most recent address for the affected Member as shown on the records of the Association; and (iii) if sent by United States mail, such notice shall be deemed given forty-eight (48) hours after deposit in the United States mail, postage prepaid.
- 15.11.3 Owner's Address for Notice. It shall be each Owner's responsibility to notify the Association in writing of any change in the Owner's address for the purpose of receiving notices from the Association. The fact that a different address appears on correspondence to the Association from an Owner shall not constitute such written notice, unless it is expressly stated that such address is a change of address for the purpose of receiving notice from the Association. Upon transfer of title to a Lot,



the transferee shall be responsible for notifying the Association of such transfer. The notification shall set forth the address of the Lot, the names of the transferee and the transferor, and the date of sale or other transfer. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association or the Board to the Lot Owner shall be deemed to be duly made and given to the transferee if duly and timely made and given to the person shown as the Owner of the Lot and at the address in the Association's records.

- 15.11.4 Notice to Co-Owners or Occupants. Unless otherwise provided by law, when a Lot is owned by two (2) or more co-Owners or is occupied by two (2) or more Occupants, notice to one (1) Owner or to one (1) Occupant shall be deemed notice to all Owners or to all Occupants, as the case may be.

- 15.12 Hearing Called by the Board; Executive Session; Open Meeting. To the extent required by *Civil Code* section 5855, whenever the Board determines to conduct a hearing, it shall notify the affected Owner(s) and/or Resident(s) in writing by Individual Delivery pursuant to *Civil Code* section 4040, at least ten (10) days before the Board meeting at which the matter will be considered. If the matter concerns Member discipline or the imposition of sanctions, the Board shall meet in executive session if requested by the Member, *unless* (and then only to the extent) applicable law requires that certain actions by the Board be conducted at an open meeting of the Board, such as *Civil Code* section 5673 concerning a decision to record a lien for delinquent Assessments. If the matter concerns compliance with architectural approval requirements, the hearing shall be conducted in open meeting pursuant to *Civil Code* section 4765. In the Board's discretion, other interested person(s) may attend a hearing and may present information relevant to the subject matter of the hearing. If a notified Owner or Resident fails to attend a noticed hearing, the Board may nevertheless conduct its deliberations and make a determination based on its own investigation and any other information supplied to it that the Board deems reasonably reliable.

- 15.13 Owner Request for Hearing. An Owner who has received a notice of violation sent pursuant to Section 15.10 ("Written Notice of Violation") or a notice of corrective action sent pursuant to Section 15.15 ("Enforcement by Association in Emergency Situations") or as otherwise provided in the Governing Documents, may request a hearing before the Board by submitting a written request to the Board. If an Owner is requesting a meeting to discuss a payment plan for a past due debt owed to the Association, the meeting shall be scheduled and conducted as provided in Section 9.16.3 ("Owner's Right to Discuss Payment Plan"). If the Owner is requesting a hearing concerning a notice of violation sent pursuant to Section 15.10 ("Written Notice of Violation") or a notice of corrective action sent pursuant to Section 15.15 ("Enforcement by Association in Emergency Situations"), the request for hearing must be submitted within ten (10) days after

the date of such notice. The Board shall schedule a hearing at its next regular meeting that is at least five (5) days after its receipt of an Owner's request for hearing or, in the Board's discretion, at another time agreed by the Board and the Owner. Hearings shall be conducted in executive session or at an open meeting as provided in Section 15.12 ("Hearing Called by the Board; Executive Session; Open Meeting").

15.14 Notice of Hearing Decisions. Within fifteen (15) days after a hearing is conducted, the Board shall notify the Owner or Resident in writing as to its decision. If the Board decides to impose sanctions, the notice shall describe the sanctions imposed and, if applicable, their effective dates.

15.15 Enforcement by Association in Emergency Situations.

15.15.1 Definition of Emergency Situation. For purposes of this Section 15.15, the following shall constitute emergency situations: (i) an immediate and unreasonable infringement of or threat to the safety or peaceful enjoyment of Residents of the Development, (ii) a traffic or fire hazard, (iii) a threat of material damage to or destruction of the Development or any portion thereof, (iv) a violation of any provision of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether the violation has occurred (such as parking violations).

15.15.2 Immediate Corrective Action. Notwithstanding any other provisions of the Governing Documents, under circumstances that constitute an emergency, the Board or its duly authorized agents may undertake immediate corrective action. The Board shall promptly thereafter send written notice of the corrective action to the affected Owner including notice of any Reimbursement Assessment assessed to the Owner for costs incurred by the Association in connection therewith. If the Owner requests a hearing pursuant to Section 15.13 ("Owner Request for Hearing"), enforcement of any Reimbursement Assessment imposed by the Board shall be held in abeyance and shall be pursued only if affirmed by the Board at the hearing.

15.16 Internal Dispute Resolution.

15.16.1 Fair, Reasonable, and Expeditious Procedure. The provisions of Article 8 ("Architectural Approval") and of Section 15.9 ("Investigation of Complaints") through Section 15.15 ("Enforcement by Association in Emergency Situations") are intended to provide a fair, reasonable, and expeditious procedure for resolving disputes between the Association and any Member that are subject to *Civil Code* sections 5900 through 5920 (which applies to, among other things, enforcement of applicable provisions of the *Corporations Code* and enforcement of the Governing

Documents). The above-referenced provisions of the Declaration shall constitute the Association's "internal dispute resolution" process as required by *Civil Code* section 5905.

15.16.2 Statutory Default Procedures. If the Association shall fail to comply with the Association's internal dispute resolution process, then the Association and the affected Member shall abide by the statutory default procedures provided in *Civil Code* section 5915, or successor statute. Any resolution so agreed upon by the parties thereto, that is not in conflict with the law or the Governing Documents, shall bind the parties and shall be judicially enforceable as provided in *Civil Code* section 5910.

15.16.3 Alternative Dispute Resolution May Also Apply. If (a) the subject matter of the dispute (including, among other things, enforcement of applicable provisions of the *Corporations Code* and enforcement of the Governing Documents) and the remedy sought (including certain kinds of declaratory, injunctive, or writ relief, which may be in conjunction with certain limited monetary relief, but excluding small claims actions and excluding Assessment disputes) are subject to *Civil Code* sections 5925 through 5965 and (b) the Association and the affected Member do not agree on a resolution through the foregoing internal dispute resolution process provided for in Section 15.16.1 ("Fair, Reasonable, and Expeditious Procedure"), then no party to the dispute may pursue a civil remedy that is subject to *Civil Code* sections 5925 through 5965, without first complying with the "alternative dispute resolution" procedures set forth in that statute and referenced in Section 15.17 ("Alternative Dispute Resolution Before Initiating Lawsuit").

15.16.4 Annual Description of Internal Dispute Resolution Process. The Association shall annually provide the Members with a description of the internal dispute resolution process required by *Civil Code* section 5920 as part of the annual policy statement prepared pursuant to *Civil Code* section 5310. Such description may consist of a copy of Article 8 ("Architectural Approval") and Section 15.9 ("Investigation of Complaints") through this Section 15.16 ("Internal Dispute Resolution").

#### 15.17 Alternative Dispute Resolution ("ADR") Before Initiating Lawsuit.

15.17.1 Annual Summary of ADR Process. As provided in *Civil Code* section 5965, the Association shall annually provide to its Members a summary of the provisions concerning alternative dispute resolution contained in *Civil Code* sections 5925 through 5965 as part of the annual policy statement prepared pursuant to *Civil Code* section 5310. Such summary may consist of a copy of this Section 15.17. Such summary shall include the following language:

"Failure of a member of the association to comply with the alternative dispute resolution requirements of section 5930 of the *Civil Code* may result in the loss of the member's right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law."

- 15.17.2 When ADR Applies. The requirements of this Section 15.17 apply to civil action or proceedings as defined in *Civil Code* section 5925(b) when the remedy sought is solely for declaratory, injunctive, or writ relief or if for the foregoing relief in conjunction with monetary damages not in excess of the jurisdictional amount for a small claims action as stated in *Code of Civil Procedure* sections 116.220 and 116.221, all as provided in *Civil Code* section 1369.520(b). *Civil Code* sections 5925 through 5965 apply to disputes between Members as well as to disputes between the Association and a Member. The ADR requirements of this Section 15.17 do not apply to Assessment disputes or to an action in small claims court.
- 15.17.3 Statutory ADR Process. In accordance with *Civil Code* sections 5925 through 5965, the Association or a Member may not file an "enforcement action" as defined in the statute unless the parties have endeavored to submit their dispute to "alternative dispute resolution" as the term is defined in *Civil Code* section 5925(a) and as the process is specified in *Civil Code* sections 5935, 5940, and 5945.
- 15.18 Non-Waiver. Failure to enforce any provision of the Governing Documents at any time shall not be deemed a waiver of the right to do so thereafter with respect to the same or any other violation of any provision of the Governing Documents.
- 15.19 Costs and Attorneys' Fees. In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Owner or Resident, Contract Purchaser, member of his or her household, tenant, invitee, guest, or pet has violated any provision of the Governing Documents, and whether or not legal or judicial proceedings are initiated, the Association shall, to the fullest extent permitted by law, be entitled to recover the full amount of all costs including attorneys' fees incurred by the Association in responding to such violation and/or in enforcing any Governing Document provision. Without limiting the generality of the foregoing, in the event an Owner pursuant to *Civil Code* section 4605 brings a civil action for violation of *Civil Code* section 4600 (concerning the granting of exclusive use of a portion of the Common Area to a Member) or pursuant to *Civil Code* section 4955 a civil action for violation of the Common Interest Open Meeting Act (*Civil Code* sections 4900 through 4955) if the Association shall prevail in any such action, the Association shall be entitled to recover reasonable attorneys' fees except to the extent

prohibited by law. In awarding attorneys' fees, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith. The remedies of the Association to recover the amount of such costs, expenses, and attorneys' fees shall include, but shall not necessarily be limited to, the imposition of a Reimbursement Assessment.

## **ARTICLE 16            AMENDMENT**

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- 16.1 Required Member Approval. Subject to any applicable requirements of Section 14.15 ("Mortgagee Consent for Termination of Development"), Section 14.16 ("Other Actions Requiring Mortgagee Consent"), this Declaration may be amended by the affirmative vote of Members representing at least a majority of the Total Voting Power of the Association; *provided, however*, that, upon advice of legal counsel licensed to practice law in the State of California including the drafting by legal counsel of appropriate amendatory provisions, the Board shall have the authority without the requirement of Member approval to amend any provision of the Declaration (i) to resolve any conflict between the Declaration and applicable law which may arise due to the enactment or amendment of a statute or due to a development in applicable case law or (ii) to conform the provisions of the Declaration to changes in applicable statutory law that impose requirements that are non-discretionary in nature.
- 16.2 Consent of County to Certain Amendments. Any amendment, addition, or deletion to this Declaration that would affect any development condition imposed on the Development by the Board of Supervisors in Resolution No. 85-0053, requires the prior written consent of the Board of Supervisors or its designee. Evidence of the consent of the Board of Supervisors or its designee shall be attached to the amended Covenants, Conditions, and Restrictions which are recorded with the County Recorder's Office. Failure to secure this consent shall render any such amendment, addition, or deletion null, void, and of no force or effect.
- 16.3 Amendment Must be Recorded. Any amendment of the Declaration shall be signed and acknowledged by the duly authorized officer(s) of the Association and recorded in the Office of the County Recorder.

## **ARTICLE 17            GENERAL PROVISIONS**

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- 17.1 County as Third Party Beneficiary. This Declaration is made for the express benefit of the County of Sonoma as a third party beneficiary under California *Civil Code* section 1559. The Declarant, its successors in interest, each Owner and the Association irrevocably waive and relinquish any right of rescission or amendment provided in this Declaration, by Section 1559 of the California *Civil*

Code or by any other provision of law, except by resolution of the Board of Supervisors or its designee. Any attempted rescission or amendment of this Declaration without such consent shall be void. The County shall have the right, but not the obligation, to enforce this Declaration and the provisions hereof relating to the conditions or approval of the Project by Resolution No. 85-0053 of the Board of Supervisors of the County of Sonoma, dated January 2, 1985. Should the County elect to exercise its right to enforce this Declaration, it shall be entitled to recover any costs and expenses it incurs in so doing.

- 17.2 Headings. The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning of any of the provisions of this Declaration, or otherwise.
- 17.3 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision hereof shall not invalidate any other provisions hereof.
- 17.4 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of fostering a plan of community ownership and occupancy and of management of the Development for the benefit of the community.
- 17.5 Amendment to Referenced Statutes; Time for Performance. References in the Declaration to particular statutes, including sections of the *Civil Code* or the *Corporations Code*, shall be deemed to include any successor statute and any amendments to existing or successor statutes. Whenever this Declaration states a time for the performance of any act by the Association which by law (as it may exist from time to time) must be performed at or within a specified time, the time for the performance of such act shall be deemed to be the widest timeframe permitted under then-applicable law.
- 17.6 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.
- 17.7 Exhibits. All exhibits attached to this Declaration are incorporated by this reference as though fully set forth herein.
- 17.8 Power of Attorney. To the extent necessary to carry out and enforce the provisions of this Declaration, an irrevocable power of attorney coupled with an interest is granted to the Association by the Owners and each of them.
- 17.9 Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges, and equitable servitudes contained in this Declaration shall run with and shall benefit and burden all of the real property subject to this Declaration, including without limitation the Lots and

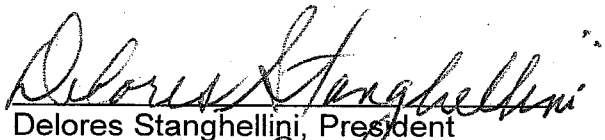
Common Areas, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors and officers, and their respective agents and successors in interest, until January 1, 2024, and thereafter the term shall be automatically extended for successive periods of ten (10) years each, unless within the six (6) months prior to January 1, 2024 or the expiration of any ten (10) year extension period a written instrument, approved by Owners entitled to vote and holding at least a majority of the Total Voting Power of the Association, terminating the effectiveness of this Declaration shall be recorded in the Office of the County Recorder of Sonoma County, California.

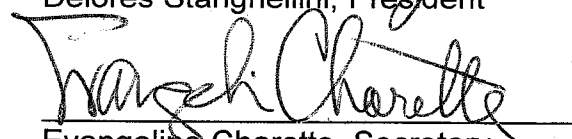
Notwithstanding anything in this Declaration to the contrary, prior to terminating this Declaration, the written consent of the Board of Supervisors or its designee shall be obtained first. Evidence of the consent of the Board of Supervisors or its designee shall be attached to the instrument terminating the Declaration recorded with the County Recorder's Office. Failure to secure this consent shall render any termination null, void, and of no force or effect.

IN WITNESS WHEREOF, we, the Members of Sonoma Greens Community Association, by means of the signatures of the President and the Secretary, do hereby affirm, approve, and adopt the foregoing *(REVISED)* AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SONOMA GREENS COMMUNITY ASSOCIATION, which Amended and Restated Declaration of Covenants, Conditions and Restrictions shall be recorded with the County Recorder of Sonoma County, California.

DATED: 5-26-15

SONOMA GREENS COMMUNITY  
ASSOCIATION, a California nonprofit  
mutual benefit corporation

  
Delores Stanghellini, President

  
Evangeline Charette, Secretary



## **EXHIBIT A**

**(Recital Paragraphs B, C, & D, §§ 1.10, 1.22, 1.37, & 3.1)**

### **Legal Description of the Property Comprising the Development Subject to this Declaration**

Lots 1 through 39, inclusive, and Common Area Parcels A through H, inclusive, as shown on the map entitled "Tract No. 709, Map of Sonoma Greens Unit One," filed for record on September 6, 1985, in Book 376 of Maps at Pages 7 through 10,

Lots 1 through 25 inclusive, and Common Area Parcels A through F, inclusive, as shown on the map entitled "Tract No. 743, Map of Sonoma Greens Unit Two," filed for record on July 23, 1987, in Book 400 of Maps at Pages 42 and 43,

Lots 1 through 23 inclusive, and Common Area Parcels A through E, inclusive, as shown on the map entitled "Tract No. 744, Map of Sonoma Greens Unit Three," filed for record on July 23, 1987, in Book 400 of Maps at Pages 44 and 45,

Lots 1 through 25, inclusive, and Common Area Parcels A through H, inclusive, as shown on the map entitled "Tract No. 802, Map of Sonoma Greens Unit Four," filed for record on August 26, 1988, in Book 422 of Maps at Pages 7 and 8,

Lots 1 through 22, inclusive, and Common Area Parcels A through F, inclusive, as shown on the map entitled "Tract No. 830, Map of Sonoma Greens Unit Five," filed for record on April 7, 1988, in Book 432 of Maps at Pages 41 and 42,

Lots 1 through 16, inclusive, and Common Area Parcels A through C, inclusive, as shown on the map entitled "Tract No. 958, Map of Sonoma Greens Unit Seven," filed for record on September 14, 1994, in Book 530 of Maps at Pages 18 and 19,

all maps filed in the Official Records of the County Recorder of Sonoma County, California.

**EXHIBIT B**

**(Article 3, Section 3.3)**

**USE AGREEMENT**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

SONOMA GREENS COMMUNITY  
ASSOCIATION  
c/o: Steward Property Services, Inc.  
1 Willowbrook Ct., Suite 105  
Petaluma, CA 94954-6550



**2015029122**

Official Records Of Sonoma County  
William F. Rousseau  
04/07/2015 02:32 PM  
GENERAL PUBLIC

AGM 14 Pgs

Fee: \$52.00



Space Above This Line For Recorder's Use Only

### USE AGREEMENT

THIS USE AGREEMENT ("Agreement") is made and entered into this 26 day of March, 2015 ("Effective Date"), by and between SONOMA GREENS COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation ("Community Association") and SONOMA GREENS CONDOMINIUM ASSOCIATION, a California nonprofit mutual benefit corporation ("Condominium Association").

### RECITALS

A. WHEREAS, Community Association, and its members consisting of the Owners of one hundred fifty (150) Lots, are the Owners of certain real property located in Sonoma, California, more particularly described in Exhibit A, attached hereto, ("Community Association Property"). All of the real property described in Exhibit A constitutes Common Area and Lots, which together constitutes a planned development within the meaning of Section 4175 of the California Civil Code;

B. WHEREAS, portions of the Community Association Property, as more particularly described in Exhibit B, attached hereto, consists of Common Area Parcels improved with amenities and recreational facilities including two (2) pools, two (2) tennis courts, a lake, one (1) pond, walkways and walking paths, and private roadways (more particularly described in Paragraph 1 ("Description and Location of the Amenities"), below, and hereinafter collectively referred to as "the Amenities");

C. WHEREAS, Condominium Association and its Members, consisting of the Owners of thirty-six (36) Units, are the Owners of that certain real property described in Exhibit C, attached hereto, which real property is adjacent to the Community Association Property and is hereinafter referred to as the "Condominium Association Property;"

D. WHEREAS, at one time, the Condominium Association and its Owners were Members of the Community Association and at such time, were subject to the same Declaration of Covenants, Conditions and Restrictions<sup>1</sup> as the Owners in the Community Association;

E. WHEREAS, the Members of the Community Association (which at the time included the Members of the Condominium Association) and the Members of the Condominium Association Property voted to deannex the Condominium Association Property from the Community Association, thereby separating the Condominium Association from the Community Association, to be effective on a date after October 1, 2003;

F. WHEREAS, in 2004 in accordance with the deannexation vote and pursuant to the provisions of a Third Amendment to the 1986 Declaration, and in order to implement the deannexation, the 1986 Declaration was amended and said amendment excluded the Condominium Association Property and its Owners from the Community Association and its Property<sup>2</sup>. The vote to deannex was further implemented by that certain Declaration of Deannexation of Unit 6 recorded on June 4, 2013, as Document No. 2013057344 in the Official Records of the County Recorder of Sonoma County, California, and upon recording the Condominium Association property was deannexed from the Community Association;

G. WHEREAS, in connection with the vote to deannex the Condominium Association from the Community Association, the parties desired to and, in consideration for the payment of a monthly fee, agreed to preserve certain rights and obligations between the two (2) Associations with respect to the maintenance, use, and enjoyment of the Amenities. The agreement between the two (2) Associations is evidenced by Exhibit B to the 2004 Declaration (hereinafter "2004 Agreement"). The 2004 Agreement gave to the Owners of the Condominium Association the right to use and enjoy the Amenities in exchange for the payment of fees and such other sums for and associated with such use and enjoyment thereof; and

H. WHEREAS, the parties hereto desire to modify, amend and change the 2004 Agreement and hereby enter into this Agreement to clarify the rights, duties, and obligations of each of the parties with respect to the Community Association Property and more particularly the Amenities. In entering into this Agreement, the parties agree,

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<sup>1</sup> See, that certain Declaration of Covenants, Conditions and Restrictions of Sonoma Greens, A Planned Development recorded in the office of the Sonoma County Recorder on February 19, 1986 as Document No. 86-011351 (the 1986 Declaration) and the subsequent declarations of annexation for additional phases and more specifically that certain Declaration of Annexation and Supplemental Restrictions for Sonoma Greens, A Planned Development Project Phase VIII, which was recorded on November 9, 1990 as Document No. 1990-0110900 in the Official Records of the County Recorder of Sonoma County, California.

<sup>2</sup> See, Declaration of Covenants, Conditions and Restrictions of Sonoma Greens Community Association which was recorded on November 9, 2004, as Document No. 2004169952 in the Official Records of the County Recorder of Sonoma County, California, (referred to herein as the "2004 Declaration").

acknowledge, and intend that this Agreement sets forth all the rights, duties, and obligations of each party to the other with respect to the Community Association Property and the Amenities and that any rights, duties, or obligations not specifically set forth and enumerated herein have been and otherwise are extinguished as a result of the deannexation of the Condominium Association Property from the Community Association Declaration.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Description and Location of the Amenities. The Amenities include the Common Area Parcels improved with two (2) pools, outdoor furniture, drinking fountains, restroom facilities, and other related facilities, two (2) tennis courts and related facilities, a lake, one (1) pond, walkways, walking paths, open spaces, private roadways and landscaping and lighting thereon.
2. Use of the Amenities by Condominium Community Association; Use Subject to Rules. In exchange for the payments of fees as set forth below, the record title holders of the Condominium Association Property and their family members, tenants, invitees and guests, but not a non-resident Owner who is hereby deemed to have delegated his or her right to use the Amenities to his or her tenant(s), (hereinafter collectively called "Residents") may use the Amenities so long as they are Residents of the Condominium Association. The parties understand, acknowledge, and agree that the right to use the Amenities is subject to the rules of the Community Association, as amended from time-to-time. Members of the Condominium Association understand and agree that any violation of the rules of the Community Association is subject to enforcement by the Community Association, including the issuance of fines and the right to deny a Resident's right to use the Amenities.
3. Fees Paid in Exchange for Use and Enjoyment of Amenities. In exchange for the right of its Members to use and enjoy the Amenities, the Condominium Association agrees to pay an annual fee of Thirteen Thousand Four Hundred Twenty-nine Dollars (\$13,429) commencing on October 1, 2014 and continuing through September 30, 2016. Thereafter, annual fees shall increase based on a cost of living index but not to exceed five percent (5%) each year. Administrative expenses and costs for keys and for replacement keys, if any, shall be paid as they are incurred, as demonstrated by a monthly invoice submitted to the Condominium Association by the Community Association.
4. Time for Payment of Fees. The annual fee shall be paid in equal monthly installments; each installment is due on the first (1<sup>st</sup>) day of each month and late on the fifteen (15<sup>th</sup>) day of each month and is deemed late and subject to a late fee of ten

percent (10%) after the fifteenth (15<sup>th</sup>) of the month. The Condominium Association may, at its option, pre-pay the balance of the annual fee at any time without penalty.

5. Duties and Responsibilities of Condominium Association with regard to the Amenities.

(a) Insurance Requirement. The Condominium Association shall maintain a Commercial General Liability policy of insurance in a minimum amount of Two Million Dollars (\$2,000,000), which policy shall name the Community Association as an additional insured. The Condominium Association shall annually provide a copy of the certificate of insurance to the Community Association and shall immediately provide notice to the Community Association of any cancellation thereof. Should the Condominium Association fail to maintain the minimum liability insurance required by this section 5(a), the Community Association shall be entitled to obtain the insurance on behalf of the Condominium Association, and the Condominium Association shall immediately reimburse the Community Association for all costs incurred by the Community Association in doing so.

(b) Keys, Rules, Resident List. Each Resident of the Condominium Association who receives a key to the pool facilities or to the tennis courts (i) shall pay for the key(s) (and any replacement key(s)) and shall sign an acknowledgment acknowledging receipt of the key(s), (ii) shall acknowledge receipt of rules pertaining to use of the Amenities, and (iii) does hereby acknowledge that the right to use the Amenities is a privilege extended to Residents of the Condominium Association that terminates once the Resident is no longer a resident of the Condominium Association. Annually, on the 15<sup>th</sup> day of August, the Condominium Association shall provide the Community Association (at the address noted herein) with a list of its Residents.

6. Duties and Responsibilities of Community Association with regard to the Amenities. The Community Association is solely responsible for the maintenance, repair, and replacement of the Amenities and for maintaining liability insurance for the Amenities in the name of the Community Association. Upon the request of a Member and proof of residency in the Condominium Association, the Community Association shall provide Members a key to access the pool facilities. The costs of the key and any replacement key(s) issued to a Member shall be paid for by the Member seeking use of and access to the pool facilities. Annually on the 15<sup>th</sup> day of August, the Community Association shall provide the Condominium Association (at the address noted herein) with a copy of its current rules and fine policy pertaining to the use of the Facilities.

7. No Other Rights. The Condominium Association and its Members have no other rights in or to the Community Association Property other than the right to use and enjoy the Amenities located on the Common Area Parcels. Other than the rights enumerated herein, the Condominium Association and its Members is/are not entitled to the use of, access to, or other rights in or to the Community Association Property or the Lots. The Community Association reserves the right to prohibit entry onto the

Community Association Property, and any part thereof, by any person whose presence is not authorized by this Agreement.

8. Recording; Provide Copies to Owners. The parties hereto intend that this Agreement shall be recorded in the Official Records of the Sonoma County Recorder promptly after execution. The Community Association agrees to pay for the costs associated with such recording and will promptly, after recording, provide a copy of the recorded Agreement to the Condominium Association at the address noted herein. Upon the signing and recording of this Agreement and each year thereafter until terminated, each party shall deliver a copy of this Agreement to each of its Owners.

9. Term, Automatic Extension upon Mutual Agreement; Notice of Termination. This Agreement is effective on the Effective Date and will remain in effect for five (5) years and will thereafter automatically renew on October 1, 2019, and will automatically renew every five (5) years thereafter, subject to written approval from both parties; *however*, in the event the Condominium Association fails to pay any monthly installment for a period of ninety (90) days or more, and upon thirty (30) days' written notice from Community Association to the Condominium Association and a failure to cure within the thirty (30) day period, this Agreement shall terminate. Once this Agreement has been terminated (either by written agreement not to renew or by a failure to pay), thereafter, neither party shall be obligated to enter into a subsequent use agreement with respect to the Amenities; provided, however, that, each of the parties hereby agrees, acknowledges, and understands that such termination shall be without prejudice to the rights and obligations accrued up to and including the date of termination. Upon termination of the Agreement, the Community Association shall record a notice of termination of the Agreement in the public records and shall deliver a conformed copy of such notice to the Condominium Association. Thereafter, each party shall deliver a copy of the notice of termination to each of its Owners.

10. Further Assurances. All parties to this Agreement agree to execute, acknowledge, and deliver all instruments, and perform all acts reasonably required to carry out the terms and the intent of this Agreement.

11. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter contained herein and supersedes all prior agreements, whether written or oral, of the parties thereto. This Agreement may not be amended in whole or in part except by a written agreement signed by each of the parties hereto and properly recorded as provided herein.

12. Severability. The invalidity or unenforceability of any provision of this Agreement or the application thereof shall not affect the validity or enforceability of any other provision or any other application thereof. If any provision of this Agreement is determined to be illegal, invalid or unenforceable for any reason, the same shall be severed from this Agreement and the remainder of the Agreement shall be given full force and effect.



13. No Waiver. The parties hereto agree that no failure to exercise or a delay in exercising any right, power or privilege under this Agreement on the part of either party shall operate as a waiver of any right, power or privilege hereunder. No provision of this Agreement, nor any right or obligation under this Agreement, may be waived except by a written agreement signed by the party waiving the provision, right, or obligation.

14. No Assignment. The covenants of this Agreement regarding the payment of fees and use of the Facilities are personal to each of the parties and their respective Owners. Each of the parties hereby agrees and acknowledges that no party may transfer or assign any of its rights or obligations under this Agreement and any attempt to do so shall be null and void.

15. Arbitration. Any controversy or dispute arising out of or relating to this Agreement or the making, performance or interpretation thereof, shall be settled by binding arbitration before a single, neutral arbitrator selected by the parties hereto, or if they cannot agree, by the presiding judge of the Superior Court of the County of Sonoma. The arbitration shall be conducted in the County of Sonoma and shall comply with and be governed by the provisions of the California Arbitration Act, Sections 1280 through 1294.2 of the California Code of Civil Procedure.

16. Attorneys' Fees. If any legal action, arbitration or other proceeding is brought arising out of this Agreement, the successful or prevailing party shall be entitled to recover reasonable costs and attorneys' fees incurred in that action or proceeding, in addition to any other relief to which the party may be entitled.

17. Governing Law; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of California without regard to its conflicts of laws provisions. The parties hereto agree that any legal action or proceeding brought by either party hereto and arising from or in connection with this Agreement or any breach hereunder shall be brought in the California Superior Court for the County of Sonoma.

18. Notices. All notices, consents, or other communications provided for herein shall be deemed validly given, made and served, if delivered by U.S. Mail to the address set forth below or to such other address as may be noticed in accordance with this provision.

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**COMMUNITY ASSOCIATION:**

Sonoma Greens Community Association,  
a California nonprofit mutual benefit  
corporation

c/o: Steward Property Services, Inc.  
Address: 1 Willowbrook Court, Ste. 105  
Petaluma, CA 94954-6550  
Attn: Beth Ainslie, CCAM

**CONDOMINIUM ASSOCIATION:**

Sonoma Greens Condominium Association,  
a California nonprofit mutual benefit  
corporation

c/o: Pacific Union Property Management  
Address: 3392 Mendocino Avenue  
Santa Rosa, CA 95403  
Attn: Carol Rogers


19. Authorization. Each party executing this Agreement represents and warrants to the other that it has full right, power, capacity, and authority to execute, deliver and perform its obligations hereunder.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same agreement.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the Effective Date.

**COMMUNITY ASSOCIATION:**

Sonoma Greens Community Association,  
a California nonprofit mutual benefit  
corporation

By:   
Its: President

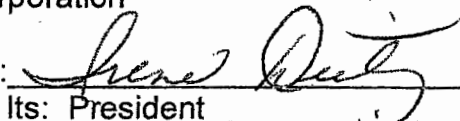
DELORES STAMBHELLINI  
Print/Type Name

By:   
Its: Secretary

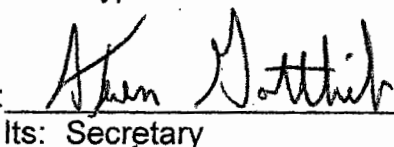
JASON C. MAUROVITS  
Print/Type Name

**CONDOMINIUM ASSOCIATION:**

Sonoma Greens Condominium Association,  
a California nonprofit mutual benefit  
corporation

By:   
Its: President

Irene Dietz  
Print/Type Name

By:   
Its: Secretary

STEVEN GOTTLIEB  
Print/Type Name

## **EXHIBIT A**

### **(Community Association Property)**

Lots 1 through 39, inclusive, and Common Area Parcels A through H, inclusive, as shown on the map entitled "Tract No. 709, Map of Sonoma Greens Unit One," filed for record on September 6, 1985, in Book 376 of Maps at Pages 7 through 10,

Lots 1 through 25 inclusive, and Common Area Parcels A through F, inclusive, as shown on the map entitled "Tract No. 743, Map of Sonoma Greens Unit Two," filed for record on July 23, 1987, in Book 400 of Maps at Pages 42 and 43,

Lots 1 through 23 inclusive, and Common Area Parcels A through E, inclusive, as shown on the map entitled "Tract No. 744, Map of Sonoma Greens Unit Three," filed for record on July 23, 1987, in Book 400 of Maps at Pages 44 and 45,

Lots 1 through 25, inclusive, and Common Area Parcels A through H, inclusive, as shown on the map entitled "Tract No. 802, Map of Sonoma Greens Unit Four," filed for record on August 26, 1988, in Book 422 of Maps at Pages 7 and 8,

Lots 1 through 22, inclusive, and Common Area Parcels A through F, inclusive, as shown on the map entitled "Tract No. 830, Map of Sonoma Greens Unit Five," filed for record on April 7, 1988, in Book 432 of Maps at Pages 41 and 42,

Lots 1 through 16, inclusive, and Common Area Parcels A through C, inclusive, as shown on the map entitled "Tract No. 958, Map of Sonoma Greens Unit Seven," filed for record on September 14, 1994, in Book 530 of Maps at Pages 18 and 19,

all maps filed in the Official Records of the County Recorder of Sonoma County, California. (APN's Book 52, Pages 81, 82, 83, 85, & 86).

## **EXHIBIT B**

### **(Portions of Community Association Property that contain Common Area subject to this Use Agreement)**

Common Area Parcels A through H, inclusive, as shown on the map entitled "Tract No. 709, Map of Sonoma Greens Unit One," filed for record on September 6, 1985, in Book 376 of Maps at Pages 7 through 10,

Common Area Parcels A through F, inclusive, as shown on the map entitled "Tract No. 743, Map of Sonoma Greens Unit Two," filed for record on July 23, 1987, in Book 400 of Maps at Pages 42 and 43,

Common Area Parcels A through E, inclusive, as shown on the map entitled "Tract No. 744, Map of Sonoma Greens Unit Three," filed for record on July 23, 1987, in Book 400 of Maps at Pages 44 and 45,

Common Area Parcel A through H, inclusive, as shown on the map entitled "Tract No. 802, Map of Sonoma Greens Unit Four," filed for record on August 26, 1988, in Book 422 of Maps at Pages 7 and 8,

Common Area Parcels A through F, inclusive, as shown on the map entitled "Tract No. 830, Map of Sonoma Greens Unit Five," filed for record on April 7, 1988, in Book 432 of Maps at Pages 41 and 42, and

Common Area Parcels A through C, inclusive, as shown on the map entitled "Tract No. 958, Map of Sonoma Greens Unit Seven," filed for record on September 14, 1994, in Book 530 of Maps at Pages 18 and 19,

all maps filed in the Official Records of the County Recorder of Sonoma County, California. (APN's Book 52, Pages 81, 82, 83, 85, & 86.)

## **EXHIBIT C**

### **(Condominium Association Property)**

Lot 1 as shown on the map entitled Tract No. 869, Map of Sonoma Greens, Unit 6, filed for record on August 7, 1990 in Book 462 of Maps at Pages 28 and 27, in the Records of the County Recorder of Sonoma County, California.

## CERTIFICATE OF ACKNOWLEDGMENT

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

State of California                    )  
  ) ss  
County of Sonoma                    )

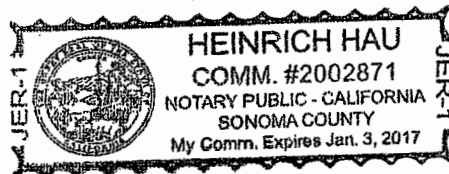
On 03/17/2015 before me, HEINRICH HAU,  
Notary Public, personally appeared DOLORES STANGHELLINI,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that  
~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by  
~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

*Heinrich Hau*



## CERTIFICATE OF ACKNOWLEDGMENT

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

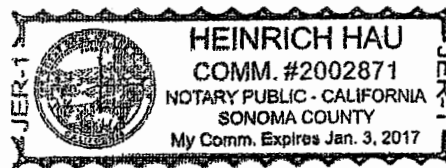
State of California )  
County of Sonoma ) ss

On 03/17/15 before me, HEINRICH HAU  
Notary Public, personally appeared JASON MAVROVITIS,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose  
name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that  
he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by  
his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature 10-10-





## CERTIFICATE OF ACKNOWLEDGMENT

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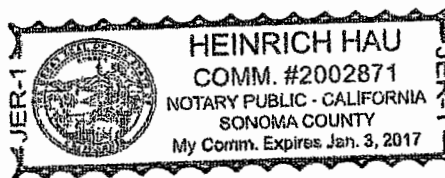
State of California )  
County of Sonoma ) ss

On 03/28/2015 before me, HEINRICH HAU,  
Notary Public, personally appeared IRENE DIETZ,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that  
~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by  
~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature 



O:\WDOCS\0644\41\AGREE\00600314.DOC

# CERTIFICATE OF ACKNOWLEDGMENT

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

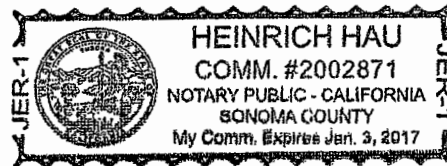
State of California )  
 ) ss  
County of San Diego )

On 03/28/2015 before me, HEINRICH HAU,  
Notary Public, personally appeared STEVEN GOTTLIEB,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature [Signature]



## CERTIFICATE OF ACKNOWLEDGMENT

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

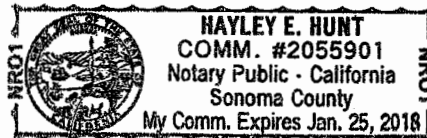
State of California )  
County of Sonoma ) ss

On 5-26-15 before me, Hayley E Hunt,  
Notary Public, personally appeared **Delores Stanghellini, President of the Sonoma Greens Community Association**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Hayley E Hunt



## CERTIFICATE OF ACKNOWLEDGMENT

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

State of California )  
County of Sonoma ) ss

On 5-26-15 before me, Hayley E Hunt,  
Notary Public, personally appeared **Evangeline Charette, Secretary of the Sonoma Greens Community Association**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Hayley E Hunt

