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FIRST RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

ALTAMIRA MANAGEMENT ASSOCIATION NO. 2



If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to *Section 12956.2 of the Government Code*. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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FIRST RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
ALTAMIRA MANAGEMENT ASSOCIATION NO. 2

PREAMBLE

The Declaration of Covenants, Conditions, and Restrictions and all subsequent amendments thereto through the date of recordation of this Declaration for Restrictions, executed by FINANCIAL SCENE, INC., a California corporation ("Declarant"), and recorded on August 10, 1973, as Document No. 73-224429, of the Official Records of San Diego County, California ("Original Declaration"), which affects all of the Properties described and commonly known as **ALTAMIRA MANAGEMENT ASSOCIATION NO. 2** are hereby amended, restated and superceded in their entirety to read as follows:

RECITALS

A. Declarant was the owner of that certain real property ("Properties") located in the City of Carlsbad, County of San Diego, State of California, which is more particularly described as follows:

Lot 1, 2, 3, 4, 5, 6 and 9 of Carlsbad Tract No. 72-23 in the City of Carlsbad, County of San Diego, State of California, according to Map thereof No. 7683, recorded in the Office of the Recorder of the County of San Diego, State of California on June 29, 1973.

B. Declarant conveyed the Properties, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declaration referred to above, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of Properties and all of which shall run with the Properties and be binding on all parties having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

C. It was the further intention of the Declarant to sell and convey residential Condominiums, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in this First Restated Declaration and which are intended to be

in furtherance of a general plan for the subdivision, development, sale and use of the Properties in furtherance of a plan of Condominium ownership as described in Section 1351(e) of the California Civil Code.

D. There currently exists upon the above-described real property a Common Interest Subdivision subject to the provisions of the Davis-Stirling Common Interest Subdivision Act (California Civil Code Section 1350, et seq.).

E. Prior to the date shown hereunder, seventy-five percent (75%) of the Owners of Condominiums within the Properties voted by written ballot to amend and restate the Original Declaration, all in accordance with the procedures for amendment set forth in the Original Declaration. It was the intention of said Owners to replace the Original Declaration, in its entirety, with the recordation of this Declaration. The Owners' action to amend and restate the Original Declaration as set forth herein and the fact that the requisite percentage of affirmative votes required in the Original Declaration was achieved, is attested by the execution of this First Restated Declaration by duly authorized officers of the Association, as required by California Civil Code Section 1355(a). As so amended, restated and superceded in its entirety, the easements, covenants, restrictions and conditions set forth herein shall run with the Properties and shall be binding upon all parties having or acquiring any right, title or interest in the Properties or any portion thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1 "Articles" means the Articles of Incorporation of **ALTAMIRA MANAGEMENT ASSOCIATION NO. 2**, which are filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.

Section 1.2 "Assessment" means any Annual, Special or Individual Assessment made or assessed by the Association against an Owner and his or her Condominium in accordance with the provisions of Article IV of this Declaration.

Section 1.3 "Association" means **ALTAMIRA MANAGEMENT ASSOCIATION NO. 2**, a nonprofit corporation, incorporated under the laws of the State of California on July 18, 1973, its successors and assigns.

Section 1.4 "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, as the same may be in effect from time to time.

Section 1.5 "Board of Directors" or "Board" means the Board of Directors of the Association.

Section 1.6 "Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.7 "Common Area" means the entire project excepting all units therein granted or reserved and the recreational facility.

Section 1.8 "Condominium" means an estate in real property as described in the California Civil Code Sections 783 and 1351(f) consisting of an undivided interest as a tenant in common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as are described in this Declaration, in the Condominium Plan, or in the deed conveying the Condominium.

Section 1.9 "Condominium Plan" means a Condominium Plan recorded pursuant to California Civil Code Section 1351(e) respecting the Project, and any amendments to the plan as recorded at File/Page No. 73-224429 in the Office of the County Recorder of San Diego County on August 10, 1973.

Section 1.10 "Declarant" means the original developer of the Properties, namely FINANCIAL SCENE, Inc., a California corporation. This information is included for historical purposes only. Control of the Association has been transferred to the Members.

Section 1.11 "Declaration" means this First Restated Declaration of Covenants, Conditions and Restrictions of **ALTAMIRA MANAGEMENT ASSOCIATION NO. 2**, as the same may be amended, supplemented, modified or changed from time to time.

Section 1.12 "Exclusive Use Common Area" shall mean and refer to those portions of the Common Areas, if any, set aside for the exclusive use of an Owner, such as a garage, deck, patio, entryway, balcony, etc. as defined in the Condominium Plan. These areas shall constitute Exclusive Use Common Area within the meaning of California Civil Code Section 1351(I).

Section 1.13 "Governing Documents" is a collective term that means and refers to this Declaration and the Articles, the Bylaws, and the Association Rules.

Section 1.14 "Improvement" includes, without limitation, the construction, installation, alteration, or remodeling of any buildings, walls, decks, fences, swimming pools, landscaping, landscape structures, skylights, solar heating equipment, spas, antennas (except as specified in Section 7.9 herein), utility lines, or any structure of any kind. In no event shall the term "Improvement" be interpreted to include projects which are restricted to the Unit interior and which do not involve the roof or any load bearing wall thereof.

Section 1.15 "Maintenance Responsibility Checklist" or "Checklist" means Exhibit A which is a list allocating responsibility between the Association and Owners for maintenance of building elements.

Section 1.16 "Member" means every person or entity who is an Owner of Record.

Section 1.17 "Mortgage" means any security device encumbering all or any portion of the Properties, including any deed of trust. "Mortgage" shall refer to a beneficiary under a deed of trust as well as to a Mortgagee in the conventional sense.

Section 1.18 "Original Declaration" means and refers to the document referenced in the Preamble to this Declaration, together with all amendments and annexations thereto, adopted prior to recordation of this Declaration.

Section 1.19 "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Condominium, as shown by the official records of the County recorder. The term "Owner" shall include, except where the context otherwise requires, the family, guests, tenants and invitees of an Owner.

Section 1.20 "Project" or "Properties" means all parcels or real property described in Recital "A" hereof, together with all building structures, utilities, and facilities, and other improvements.

Section 1.21 "Unit " or "Separate Interest" means the elements of a Condominium that are not owned in common with the Owners of Condominiums in the Project, such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration.

Section 1.22 "Recreational Facility" means Lot 9 of said Carlsbad Tract No. 72-23 including all structures and appurtenances thereon.

ARTICLE II

PROPERTY RIGHTS

Section 2.1 Property Subject to Declaration.

All the real property previously described in the Preamble and the improvements thereon, shall be subject to this Declaration.

Section 2.2 Elements of Condominium.

Ownership of each Condominium within the Project shall include a Unit; an undivided interest in the Common Area, as specified in the deed to each Owner; Exclusive Use Common Area as designated in the Condominium Plan; a membership in the Association; and any exclusive or nonexclusive easement or easements appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan and the deed to the Condominium.

Section 2.3 No Separate Conveyance.

No Owner may sell, assign, lease or convey (i) his or her interest in the Common Area separate and apart from his or her living Unit, nor (ii) his or her interest in any Exclusive Use Area separate and apart from his or her interest in the Common Area and his or her living Unit, nor (iii) his or her living Unit separate and apart from his or her Exclusive Use Areas.

Section 2.4 Right of Entry by Association.

For the purpose of performing the maintenance of the Common Area or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association's agents or employees shall have the right to enter any Unit or upon any portion of the Common Area to effect emergency repairs. For other than emergency repairs, the Association's agents or employees shall have the right to enter any Unit or any portion of the Common Area to effect repairs, improvements, replacements or maintenance which the Association, after approval by a majority vote of the Board, reasonably deems necessary. Such entry shall be made with as little inconvenience to the Owner as possible, and any damage caused thereby shall be repaired by the Association. Further, such entry for other than emergency repairs shall be made only after not less than three (3) days' notice has been given to the Owner.

Section 2.5 Nonexclusive Easements.

Each Owner shall have a nonexclusive easement for use and enjoyment of the Common Area and for ingress, egress, and support over and through the Common Area. These easements shall be appurtenant to, and shall pass with the title to, each Unit and shall be subordinate to the exclusive

easements granted elsewhere in this Declaration, as well as to the right of the Association to regulate time and manner of use, to charge reasonable admission fees, and to perform its obligations under this Declaration.

Section 2.6 Partition Prohibited.

The Common Areas shall remain undivided as set forth above. Except as provided by California Civil Code Section 1359 or authorized under this Declaration, no Owner shall bring any action for partition of the Common Areas, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Condominium owned by two (2) or more persons and division of the sale proceeds is not prohibited hereby, but partition of title to a single Condominium is prohibited.

Section 2.7 Encroachments Easements.

Each Owner is hereby declared to have an easement over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, reconstruction, repair, settlement or shifting of the building, or any other similar cause. There shall be easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

Section 2.8 Delegation of Use.

Any Owner may delegate his or her rights of use and enjoyment of the Project, including any recreational facilities, to the members of his or her family, his or her guests and tenants, and to such other persons as may be permitted by the Bylaws and the Association Rules. However, if an Owner has sold his or her Unit to a contract purchaser or has leased or rented it, the Owner, members of the Owner's family, and guests shall not be entitled to use and enjoy any of such rights while the Owner's Unit is occupied by the contract purchaser or tenant. Instead, the contract purchaser, or tenant, while occupying such Unit, shall be entitled to use and enjoy such rights, including the recreational facilities, and can delegate the rights of use and enjoyment in the same manner. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of Assessments or performance of the covenants, conditions and restrictions contained in this Declaration.

Section 2.9 Obligation to Supply Tenant Information.

Each Owner shall notify the Secretary or management company of the Association of the names of any contract purchasers or tenants of such Owner's Unit and such other information such as telephone number for contact and identification of resident vehicles, within ten (10) days of purchaser/tenant taking possession on Unit.

Section 2.10 Lease Must Require Conformance to Governing Documents.

Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Unit shall require compliance by the tenant or contract purchaser with all of the Governing Documents, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of the Governing Documents to the same extent that such right of action exists against such Owner. Any lease shall specify that failure to abide by such provisions shall be a default under the agreement.

Section 2.11 Discipline of Lessees.

In the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems appropriate under the circumstances in order to preserve the quiet enjoyment of other Owners and residents within the Project. Without limiting the foregoing, the Association's actions may include suspension of the tenant's privileges to use the Common Area or the imposition of fines and penalties against such Owner.

Section 2.12 Hotel or Transient Purposes; Minimum Lease Term.

There shall be no hotel or transient use of any Unit located within the Properties. No Property shall be leased, rented or sublet for less than a thirty (30) day period.

Section 2.13 Owner Liability for Common Area Damages.

Each Owner shall be liable to the Association and the remaining Owners for the cost of repair of any damage to the Common Area that may be sustained by reason of the negligent act or omission of that Owner, that Owner's family members, contract purchasers, tenants, guests, or invitees. The Board shall be solely responsible for determining whether or not a claim shall be submitted to an insurer for damage to Common Area. In the event a claim is submitted, and repair funds collected, such Owner shall only be responsible for the costs over and above the amount recovered. If the Owner refuses or fails to reimburse the Association for the demanded funds, the amount may be added to the Owner's assessment account in accordance with Section 4.11.1 and 4.13 herein.

Section 2.14 Notification of Association of Water Intrusion.

The Owners shall cause notice to be given to the Association of any water within, or water intrusion into, their Unit immediately upon discovery of such leak or water intrusion. Owner shall be responsible for causing all water to be extracted from the Unit within twenty-four (24) hours of discovery, whether or not performed by Association contractors. Owner and his or her tenants, guests, invitees, agents, or employees shall be solely responsible for any claim of property damage or personal injury alleged which arises from the presence of mold or fungi resulting from water intrusion into the property when said Owner, tenants, guests, invitees, agents or employees failed to notify the Association immediately of discovery of said water intrusion or failed to immediately cause all water to be extracted from the Unit. The Association shall not be liable for any property damage or personal injury alleged to arise from the presence of mold or fungi in any property unless the damages or injuries were caused by the gross negligence of the Association, its Board, officers, agents or employees.

Section 2.15 Unassigned Parking Areas.

Each parking space within the Common Area which has not been assigned in the Condominium Plan or by deed to an Owner as Exclusive Use Common Area shall remain within the jurisdiction of the Association as resident parking only.

Section 2.16 Exclusive Use of Common Area.

With the approval of 51% of the membership, the Board shall have the right to allow one or more Owners to exclusively use portions of the otherwise nonexclusive Common Area. Any measure placed before the Owners requesting that the Board grant exclusive use of any portion of the Common Area shall specify whether the Association will receive any monetary consideration for the grant and whether the Association or the transferee will be responsible for providing any insurance coverage for the exclusive use of the Common Area. Owner approval will not be required if the provisions of Civil Code Section 1363.07(a)(3)(E) are applicable (Owner approval is not required if the portion of the Common Area is generally inaccessible and is not of general use to the membership at large). If approved, the Association will grant the Owner a revocable license to use the property. A license agreement will be signed between the Owner and the Association specifying the permitted use of the property and the conditions under the license can be revoked.

ARTICLE III

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Association to Manage Common Areas.

The management of the Common Area shall be vested in the Association in accordance with its Governing Documents. The Owners covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles, Bylaws and Rules of the Association.

Section 3.2 Membership.

The Owner of a Condominium shall automatically, upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as the ownership ceases for any reason, at which time the membership in the Association shall automatically cease. Membership shall be held in accordance with this Declaration, the Articles, and Bylaws of the Association.

Section 3.3 Transfer.

The Association membership held by any Owner in the property shall not be transferred, pledged or alienated in any way except upon the sale of an ownership interest and then only to the purchaser. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner should fail or refuse to transfer the membership registered in his or her name to the purchaser of such Unit, the Association shall have the right to record the transfer upon the books of the Association.

Section 3.4 Voting Rights.

The Association shall have one class of membership. When more than one person holds an interest in any Condominium, all such persons shall be Members. Each Condominium in the property is entitled to one vote. The vote for such Condominium shall be exercised as the Owners of interest therein decide, but in no event shall more than one vote be cast with respect to any Condominium.

Section 3.5 Joint Owner Disputes.

The vote for each such Condominium may be cast only as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner

or Owners cast a vote representing a certain Condominium, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Condominium. In the event more than one vote is cast for a particular Condominium, none of said votes shall be counted and all of said votes shall be deemed void.

ARTICLE IV

ASSESSMENTS

Section 4.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges, (2) Special Assessments for purposes permitted herein, and (3) Individual Assessments (as more fully described in Section 4.12 herein); such Assessments to be established and collected as hereinafter provided. The Annual and Special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Unit and shall be a continuing lien upon the separate interest against which each such Assessment is made, the lien to become effective upon recordation of a notice of Assessment. Each such Assessment together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the Assessment fell due. No Owner may exempt himself or herself from liability for this contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his or her Unit.

Section 4.2 Purpose of Assessments.

The Assessments levied by the Association shall be used exclusively to promote the economic interest, recreation, health, safety, and welfare of all the residents in the entire Project and for the improvement and maintenance of the Common Area and those other portions of the property for which the Association is responsible and for the common good of the Project.

Section 4.3 Annual Assessment.

The Board of Directors shall determine and fix the amount of the Annual Assessment against each Unit in accordance with the procedures described below.

Section 4.3.1 Preparation of Annual Budget.

Not less than 30 nor more than 90 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated common expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the common facilities) by preparing and distributing to all Association Members a budget. If the Board fails to distribute the budget for any fiscal year within the time period provided for in this Section, the Board shall not be permitted to increase regular assessments for that fiscal

year unless the Board first obtains the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting of the Association.

Section 4.3.2 Reserve Contributions and Accounts.

As part of the Annual Assessments for maintenance authorized above, the Board of Directors shall annually fix the amount to be contributed to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Separate records shall be maintained for all funds deposited to the said account, which shall be designated as a reserve account.

Section 4.4 Special Assessments for Capital Improvements or Extraordinary Expenses; Reserves for Replacement.

The Board of Directors may levy, in any Assessment year, a Special Assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for extraordinary expenses incurred by the Association.

Section 4.5 Limits for Increases of Annual and Special Assessments.

The Board of Directors of the Association may not impose an Annual Assessment that is more than twenty percent (20%) greater than the Annual Assessment for the Association's preceding fiscal year or impose Special Assessments which in aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the approval of Owners casting a majority of the votes at a meeting of the Association at which a quorum is present.

This Section does not limit Assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following: (i) An extraordinary expense required by an order of a court; (ii) An extraordinary expense necessary to repair or maintain the Common Area for which the Association is responsible where a threat to personal safety is discovered; and (iii) An extraordinary expense necessary to repair or maintain the Common Area that could have not been reasonably foreseen by the Board in preparing and distributing the current year's operating budget.

Section 4.6 Required Notice of Assessment Increases.

Whenever there is an increase in Annual Assessments or Special Assessments, all Owners shall be notified by first class mail, not less than thirty (30) nor more than sixty (60) days prior to the Assessment due date.

Section 4.7 Division of Assessments; Payment of Assessments.

Annual and Special Assessments shall be charged to and divided among the Units equally. Annual Assessments levied against each Owner and his or her Condominium shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other date or dates as may be established from time to time by the Board of Directors. Special Assessments shall be due and payable in advance of such date or dates as established by the Board of Directors.

Section 4.8 Effect of Nonpayment of Assessments.

Assessments are delinquent fifteen (15) days after they become due. A late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10), whichever is greater shall be imposed upon any delinquent payment. Interest on delinquent Assessments and late charges shall be imposed at an annual percentage rate of twelve percent (12%) interest commencing thirty (30) days after the Assessments become due. Late charges and interest on past due amounts may be modified by the Board in accordance with any changes permitted by state law.

Section 4.9 Transfer of Unit by Sale or Foreclosure.

Sale or transfer of any Unit shall not affect the Assessment lien. However, the sale of any Unit pursuant to foreclosure of a first Mortgage shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer (except for Assessment liens recorded prior to the Mortgage). No sale or transfer shall relieve such Unit from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 4.10 Notice of Delinquent Assessment.

Section 4.10.1 Assessment Lien.

If any Annual or Special Assessment is delinquent, the Association may record an Assessment Lien against the Condominium of the delinquent Owner. Notwithstanding any provision of this Declaration to the contrary, the Assessment lien provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust upon any Condominium. The lien shall be signed by any officer of the Association or any agent designated by the Association.

Section 4.10.2 Requirements Before Recording Liens.

The recordation of liens shall be done in accordance with Civil Code Section 1367.1 and any amendments thereto. At least 30 days prior to recording a lien against the separate interest of any Owner of record, the Association shall notify the Owner of record, in writing, by certified mail of the following: (1) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the Condominium has the right to inspect the Association records, pursuant to Section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION;" (2) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any; (3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association; (4) The right to request a meeting with the Board; (5) The right to dispute the Assessment debt by submitting a written request for dispute resolution pursuant to Civil Code Sections 1363.810, et. seq.; and (6) The right to request alternative dispute resolution with a neutral third party pursuant to Civil Code Sections 1369.510, et. seq. before the Association may initiate foreclosure against the Owner's Condominium, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

Prior to recording a lien for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to Civil Code Sections 1363.810, et. seq.

For liens recorded on or after January 1, 2006, the decision to record a lien for delinquent assessments shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the directors in an open meeting. The Board shall maintain the confidentiality of the Owner or Owners of the Condominium by identifying the matter in the minutes by the parcel number of the property, rather than the name of the Owner or Owners. The Board shall record the vote in the minutes of that meeting.

Section 4.10.3 Secondary Address.

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

Section 4.10.4 Contents of Lien.

Any notice of delinquent assessment shall state the amount of the Assessment and other sums imposed in accordance with Section 1366, a legal description of the Owner's Condominium, and the name of the record Owner of the Condominium. The itemized statement of the charges owed by the owner described in paragraph 4.10.2 shall be recorded together with the notice of delinquent assessment. In order for the lien to be enforced by nonjudicial foreclosure, the notice of delinquent assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice of delinquent assessment shall be signed by the person designated in the Declaration or by the Association for that purpose, or if no one is designated, by the president of the Association.

Section 4.10.5 Requirements after Lien is Recorded.

A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an Owner of the Condominium in the Association's records, and the notice shall be mailed no later than 10 calendar days after recordation.

Section 4.10.6 Erroneous Recording of Lien.

If it is determined through dispute resolution that the Association has recorded a lien for delinquent assessments in error, the Association shall promptly reverse all late charges, fees, interest, attorney's fees, costs of collection, and costs of recordation and release of the lien, and pay all costs related to the dispute resolution or alternative dispute resolution.

Section 4.10.7 Release of Liens.

Within 21 days of the payment of the sums specified in the notice of delinquent assessments, the Association shall record a lien release and provide the Owner a copy of same.

Section 4.10.8 Nonexclusive Remedy.

Nothing in this Section or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the Owner of a Condominium to recover sums for which a lien is created pursuant to this Section or prohibits the Association from taking a deed in lieu of foreclosure.

Section 4.11 Collection of Delinquent Assessments.

Section 4.11.1 Delinquencies Less than \$1,800 or One Year.

If the Association seeks to collect delinquent Annual or Special Assessments of an amount less than One Thousand Eight Hundred Dollars (\$1,800), not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, it may not collect that debt through judicial or nonjudicial foreclosure, but may attempt to collect or secure that debt in any of the following three ways:

- (1) By a civil action in small claims court. If the Association chooses to proceed by an action in small claims court, and prevails, may enforce the judgment as permitted under the Code of Civil Procedure. The amount that may be recovered in small claims court to collect upon a debt for delinquent Assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following: (A) The amount owed as of the date of filing the complaint in the small claims court proceeding; and (B) In the discretion of the court, an additional amount to that described in subparagraph (A) equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid Assessments and any reasonable late charges, fees and costs of collection, attorney's fees, and interest, up to the jurisdictional limits of the small claims court.
- (2) By recording a lien on the Owner's Condominium as provided in Section 4.10 upon which the Association may not foreclose until the amount of the delinquent assessments secured by the lien, exclusive of any accelerated

assessments, late charges, fees and costs of collection, attorney's fees, or interest, equals or exceeds one thousand eight hundred dollars (\$1,800) or the assessments are more than 12 months delinquent.

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

Section 4.11.2 Delinquencies Greater than \$1,800 or One Year.

If the Association seeks to collect delinquent Annual or Special Assessments of an amount of One Thousand Eight Hundred Dollars (\$1,800) or more, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, or any Assessments that are more than 12 months delinquent, it may use judicial or nonjudicial foreclosure subject to the following conditions:

- (1) Prior to initiating a foreclosure on an Owner's Condominium, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to Civil Code Section 1363.810 et. seq., or alternative dispute resolution as set forth in Civil Code Section 1369.510 et. seq. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.
- (2) The decision to initiate foreclosure of a lien for delinquent Assessments that has been validly recorded shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote in an executive session. The Board shall record the vote in the minutes of the next meeting of the Board open to all Owners. The Board shall maintain the confidentiality of the Owner or Owners of the Condominium by identifying the matter in the minutes by the parcel number of the property, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least 30 days prior to any public sale.
- (3) The Board shall provide notice by personal service to an Owner of a Condominium who occupies the Condominium or to the Owner's legal representative, if the Board votes to foreclose upon the Condominium. The

Board shall provide written notice to an Owner of a Condominium who does not occupy the Condominium by first-class mail, postage prepaid, at the most current address shown on the books of the Association. In the absence of written notification by the Owner to the Association, the address of the Owner's Unit may be treated as the Owner's mailing address.

- (4) A nonjudicial foreclosure by the Association to collect upon a debt for delinquent assessments shall be subject to a right of redemption. The redemption period within which the Condominium may be redeemed from a foreclosure sale under this Paragraph ends 90 days after the sale.

Section 4.11.3 Foreclosure of Lien.

Once the requirements of this Section are followed, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent Assessment, or sale by a trustee substituted pursuant to California Civil Code Section 2934(a). Any sale shall be conducted in accordance with the provisions of Sections 2924, 2924(b), 2924(c), 2924(f), 2924(g) and 2924(h) of the California Civil Code, or any successor statutes thereto, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Association, acting on behalf of the Condominium Owners, shall have the power to bid for the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

Section 4.12 Individual Assessments.

In addition to the Special Assessments levied against all Owners in accordance with Section 4.4 above, the Board of Directors may impose Individual Assessments against an Owner in any of the circumstances described below, provided that no Individual Assessments may be imposed against an Owner pursuant to this Section 4.12 until the Owner has been afforded notice and the opportunity for a hearing, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Individual Assessments include the following:

Section 4.12.1 Damage to Common Area.

In the event that any damage to, or destruction of, any portion of the Common Area, including any portion of the Unit which the Association is obligated to repair and maintain is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses

incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Individual Assessment.

Section 4.12.2 Expenses Incurred in Gaining Member Compliance.

In the event that the Association incurs any costs or expenses to bring the Owner and/or his or her Condominium into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as an Individual Assessment.

Section 4.12.3 Transfer Fees.

A transfer fee may be assessed against each Unit at the time escrow closes on the conveyance of title to such Unit, if title is transferred, or as of the date a new tenant takes possession of the Unit, if the Unit is leased. The charge shall be an amount not to exceed the Association's actual costs to change its records in connection with said change of ownership or possession of the Unit.

Section 4.13 Levy of Individual Assessment and Payment.

Once an Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in this Section 4.12, such Individual Assessment shall be recorded on the Owner's account, notice thereof shall be mailed to the affected Owner and the Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within 30 days after the mailing of notice of the Assessment.

Section 4.14 Foreclosable Lien for Damage to Common Area.

Once an Individual Assessment has been imposed by the Association's Board of Directors pursuant to Section 4.12.1 with regard to damage to Common Area, such charge may be collected as provided in Section 4.11.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

Section 5.1 General Powers and Authority.

The Association shall have all the powers of a nonprofit corporation under California law, subject only to the limitations in the Governing Documents of the Association. It may perform all acts which may be necessary for or incidental to the performance of the obligations and duties imposed upon it by this Declaration or the other Governing Documents. Its powers shall include, those granted in its Bylaws and the following:

Section 5.1.1 Assessments.

The Association shall have the power to establish, fix, and levy Assessments against the Owners in accordance with the procedures set out in this Declaration and subject to the limitations therein.

Section 5.1.2 Adoption of Rules.

The Association shall have the power to adopt reasonable operating rules as more fully set forth in Section 5.5 herein.

Section 5.1.3 Enforcement of Governing Documents.

The Association shall have the power and duty to enforce the Governing Documents as more fully provided in Article XII herein.

Section 5.1.4 Right of Entry.

The Association's agents or employees shall have the right to enter upon any Unit when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in accordance with Section 2.4 of this Declaration.

Section 5.1.5 Easements.

The Association shall have the authority, by document signed or approved by two thirds (2/3) of the Board of Directors, to grant easements in addition to those shown on the map, where necessary for utilities, cable television, and sewer facilities over the Common Area to serve the common and open space areas and the Units. All other easements, such as those to accommodate adjoining property owners, require approval of a majority of the total voting power of the Association.

Section 5.1.6 Dedication.

The Association shall have the power to dedicate all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication shall be effective unless approved by a majority of the total voting power of the Association.

Section 5.2 Duties of the Association.

In addition to the duties delegated to the Association or its agents and employees elsewhere in these Governing Documents, the Association shall be responsible for the following:

Section 5.2.1 Maintenance and Operation of Common Areas.

The Association, acting through the Board, shall operate and maintain the Common Areas and the facilities located thereon; such duty shall include providing maintenance of the Common Areas as provided in Article VI.

Section 5.2.2 Financial Statements.

The Association shall regularly prepare, review and distribute financial statements to the Owners in accordance with the Bylaws, Section 9.1.

Section 5.2.3 Insurance.

The Association shall maintain such policy or policies of insurance as are required by this Declaration.

Section 5.2.4 Discharge of Liens.

The Association shall discharge by payment, if necessary, any lien against the Common Area, and charge the cost thereof to the Owner or Owners responsible for the existence of the lien (after notice and a hearing, as provided in the Bylaws).

Section 5.2.5 Assessments.

The Association shall fix, levy, collect, and enforce Assessments.

Section 5.2.6 Payment of Expenses.

The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business, including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association. This shall also include water, sewer, garbage, electrical, telephone, gas and other necessary utilities services

for the Project, except to the extent that such services are separately metered or charged to the Units, in which event each Unit Owner shall pay the amount charged to him or her.

Section 5.2.7 Conduct Reserve Studies.

At least once every three years the Board of Directors shall cause a study of the reserve account requirements of the Project to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one half (½) of the gross budget of the Association for any fiscal year, excluding the Association reserve account. The reserve study shall consist, in part, of a reasonably competent diligent inspection of the assessable area of the Association maintained major components.

Section 5.3 Limitation on Board Authority.

Except with the vote or written assent of Owners casting a majority of the votes at a meeting or through a mail ballot where a quorum is represented, the Board shall not take any of the following actions:

Section 5.3.1 Sale of Association Property.

Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

Section 5.3.2 Compensation to Board Members.

Pay compensation to Members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse a Member for expenses incurred in carrying on the business of the Association.

Section 5.3.3 Contracts in Excess of One Year.

Enter into a contract with a third person to furnish goods or services for the Common Area or the Association for a term longer than one year, with the following exceptions: (i) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided the term does not exceed the shortest term for which the supplier will contract at the regulated rate; (ii) Prepaid casualty or liability insurance policies not to exceed three years' duration provided the policy permits short rate cancellation by the insured; (iii) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration; (iv) Agreements for lease of laundry equipment shall not exceed five (5) years; and (v) Contracts for cable

television and other telecommunications wiring to be negotiated for such terms as the Board deems proper.

Section 5.4 Limitation on Liability of Officers and Directors.

No director, officer, committee member, employee, or other agent of the Association, shall be liable to any Owner or any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person if such person has acted in good faith and in a manner such person reasonably believed to be in the best interests of the Association.

Section 5.5 Adoption of Rules.

The Association shall have the power to adopt reasonable operating rules governing the Project, use of the Common Area and any facilities located thereon, and of any other Association property. Such rules may include, but are not limited to, reasonable restrictions on use by the Owners and their guests, rules of conduct, and the setting of reasonable fees for the use of recreational facilities. Rules must be in writing and must be consistent with applicable law and the governing documents. A copy of the current Association Rules shall be given to each Owner.

Section 5.5.1 Review and Comment Period.

Prior to enacting certain classes or types of rules, the Association shall provide Owners with a 30 day advance notice of a rule adoption or change, which shall include a copy of the proposed rule and a description of the purpose and effect of the proposed rule, and allow Owners to provide comments to the Board regarding the proposed rule. After the 30 day comment period has expired, the Board shall meet to discuss any comments received, and decide whether to proceed with adoption of the proposed rule. If the rule is adopted, the Board shall provide notice to the Owners of the rule adoption within fifteen (15) days of adopting the rule.

Section 5.5.2 Rule Classes Subject to Review and Comment - "Class 1 Rules."

The following classes or types of rules (Class 1 Rules) shall be subject to the rights of Owners to review and comment: common area use rules; exclusive-use common area rules (for example, balcony storage); home use rules (for example, noise regulations); architectural rules, including procedures for review, approval and disapproval of applications; discipline rules, including any fine schedule, payment plans for delinquent assessments; dispute resolution procedures; and procedures for elections.

Section 5.5.3 Rule Classes Not Subject to Review and Comment - “Class 2 Rules.”

Except as otherwise required by law, the following classes or types of rules (Class 2 Rules) shall not be subject to the rights of Owners to review and comment: common area maintenance, a decision on a specific matter that is not intended to apply generally, regular or special assessment amounts, any rule required by law, and any repeating of existing law or governing document provision.

Section 5.5.4 Owner Veto Rights of Class 1 Rules.

Members of the Association owning five percent (5%) or more of the votes may call a special meeting of the membership to reverse a rule change to a Class 1 Rule. Special meeting of the Members may be called by delivering a written request to the president or secretary of the Board, after which the Board shall deliver notice of the meeting to the membership and hold the meeting in conformity with Section 7511 of the Corporations Code. The written request may not be delivered more than thirty (30) days after the Members are notified of the rule change. Members are deemed to have been notified of a rule change on delivery of notice of the rule change, or on enforcement of the resulting rule, whichever is sooner. For the purposes of Section 8330 of the Corporations Code, collection of signatures to call a special meeting under this Section is a purpose reasonably related to the interests of the Members of the Association. A Member request to copy or inspect the membership list solely for that purpose may not be denied on the grounds that the purpose is not reasonably related to the member's interests as a member. In lieu of calling the meeting described in this Section, the Board may distribute a written ballot to every Member of the Association in conformity with the requirements of Section 7513 of the Corporations Code. The rule change may be reversed by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present or by ballot (which affirmative votes also constitute a majority of the required quorum). A rule change reversed under this Section may not be re-adopted for one year after the date of the meeting reversing the rule change. Nothing in this Section precludes the Board from adopting a different rule on the same subject as the rule change that has been reversed. As soon as possible after the close of voting, but not more than fifteen (15) days after the close of voting, the Board shall provide notice of the results of the vote to every Member. This Section does not apply to an emergency rule change.

Section 5.5.5 Emergency Rules.

The Board may enact a temporary emergency rule dealing with any class or type of rule if the Board determines that an immediate rule change is necessary to address an

imminent threat to public health or safety or imminent risk of substantial economic loss to the Association. The Board shall provide notice to the Owners of adoption of the emergency rule within fifteen (15) days of its adoption, which shall include the text of the rule change, a description of the purpose and effect of the rule change, and the date that the rule change expires. Such an emergency rule may be effective for up to 120 days, and may not be re-adopted as an emergency rule under this Section but may be re-adopted pursuant to Section 5.5.1 above.

ARTICLE VI

MAINTENANCE RESPONSIBILITIES

Section 6.1 Common Area.

The Association shall be solely responsible for all maintenance, repair, upkeep and replacement of the Common Area including the Recreational Facility. The Association's responsibility shall include but not be limited to repairing, replacing and maintaining the exterior of all buildings, structures and improvements in the project and the Recreational Facility, including roofs, driveways, walkways, building support structures and Exclusive Use Common Areas. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area without express approval of the Association.

Section 6.1.1 Wood-Destroying Pests or Organisms.

The Association is responsible for the repair and maintenance of the Common Area occasioned by the presence of wood-destroying pest or organisms. The cost of temporary relocation during the repair and maintenance of the areas within the responsibility of the Association shall be borne by the Owner of the Unit affected. The Association shall give notice of the need to temporarily vacate a Unit to the occupants and to the Owners not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

Section 6.1.2 Temporary Relocation Costs.

The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the Association shall be borne by the Owner of the Unit affected.

Section 6.2 Owner Maintenance Responsibilities.

Each Condominium Owner shall have the exclusive right to paint, tile, carpet, paper or paint or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding the unit. Each Condominium Owner shall have the obligation at his own cost and expense, to maintain and repair all pipes, ducts, flues, chutes, conduits, wires and systems supplying utility/or

convenience systems to his Condominium which are located in or upon his unit, or the ceilings, roof, floors, or walls of his unit, including light bulbs for entry ways to the unit and appurtenant garage. The foregoing shall not be deemed to permit any Condominium Owner to interfere with or damage the structural integrity of any building in the project, or to interfere with the use or enjoyment of the Common Areas or any other areas in the Project.

Section 6.3 Maintenance Responsibility Checklist.

A Maintenance Responsibility Checklist is attached hereto and marked as Exhibit "A." The Checklist sets forth specifically those components of the Project that are the respective responsibility of the Owners and Association to maintain. In the event of a conflict between the division of maintenance responsibility set forth in the Governing Documents and the Checklist, the Checklist shall be followed.

Section 6.4 Recovery of Costs of Certain Repairs and Maintenance.

In the event that an Owner fails to perform maintenance functions for which he or she is responsible under this Article, the Association may give written notice to the offending Owner with a request to correct the failure within 15 days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association may exercise its rights under Article II, Section 2.4, to enter the Owner's Unit and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing. The cost of the repairs may be billed to the owner as an Individual Assessment in accordance with Section 4.12.

Section 6.5 Cooperative Maintenance Obligations.

To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the prosecution of its work.

Section 6.6 Repairs of Utility Lines.

The rights and duties of the Owners of Condominiums within the Project with respect to sanitary sewer, water, electricity, gas and telephone lines and facilities shall be as follows:

Section 6.6.1 Easement for Repairs and Access.

Whenever sanitary sewer, water, electricity, gas, television receiving, telephone lines or connections, are installed within the Property, which connections or any portion thereof lie in or upon Condominiums owned by other than the Owner of a Condominium served by such connections, the Owners of any Condominium served by such connections shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter

upon the Condominiums or to have the utility company enter upon the Condominiums in or upon which such connections or any portion thereof lie, to repair, replace and generally maintain such connections, as and when necessary.

Section 6.6.2 Utility Connection Serving More Than One Unit.

Whenever sanitary sewer, water, electricity, gas or telephone lines or connections, are installed within the Property which connections serve more than one Condominium, the Owner of each Condominium served by such connection shall be entitled to the full use and enjoyment of such portions of such connections as service his or her Condominium.

Section 6.6.3 Dispute Between Owners Over Repairs.

In the event of a dispute between Owners with respect to the repair or rebuilding of such connections, or with respect to the sharing of the cost thereof, then, upon written request of one or such Owners addressed to the Association, the matter shall be submitted to the Board of Directors who shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

ARTICLE VII

USE RESTRICTIONS

Each Owner of a Condominium shall be responsible for ensuring that the Owner's family, guests, tenants and all occupants of the Owner's Condominium comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association. In addition to any rights the Association may have against the Owner's family, guests, tenants or occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or occupants.

Section 7.1 Single Family Residential Use.

The use of the individual Units in the properties is hereby restricted to single family residential use. In no event shall a Unit be occupied by more individuals than permitted by applicable zoning laws or governmental regulations

Section 7.2 Business Activities.

No business or commercial activities of any kind whatsoever shall be conducted on any Unit without the prior written approval of the Board, provided that the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents. Furthermore, no restrictions contained in this Section shall be construed in such a manner so as to prohibit any Owner from (a) maintaining his or her personal library in his or her residence, (b) keeping his or her personal business records or accounts therein, (c) handling his or her personal or professional telephone calls or correspondence therefrom, (d) leasing or renting his or her residence in accordance with Article II, Sections 2.8 through 2.12 hereof, or (e) conducting any other activities otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization. The uses described in (a) through (e), above, are expressly declared to be customarily incidental to the principal residential use of the Unit and not in violation of this Section. Any business activity that might be permitted under the restrictions contained herein that utilize garage electricity are prohibited as the Association pays for all electrical power supplied to the garages.

Section 7.3 Right to Display American Flag.

This Declaration shall not be interpreted to limit or prohibit the display of the flag of the United States by an Owner on or in the Owner's separate interest or within the Owner's Exclusive Use Common Area. For purposes of this section "Display of the flag of the United States" means

a flag of the United States made of fabric, cloth or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora or balloons, or any other similar building, landscaping, or decorative component.

Section 7.4 Prohibition of Noxious Activities.

No noxious or offensive activities shall be conducted within or upon any portion of the Property nor shall anything be done or permitted within any Unit which is or could become an unreasonable annoyance or nuisance to the neighborhood. Without limiting any of the foregoing, no Owner shall permit noise of any sort (including, but not limited to, barking dogs, the operation of air conditioners, stereo amplifier systems, television sets, motor vehicles and power tools) to emanate from an Owner's Unit or any portion of the Common Area which would unreasonably disturb other Owners' enjoyment of their Units or the Common Area. Excessive noise levels may be determined in the sole discretion of the Board which may, but shall not be obligated to, rely on the County Code or other applicable governmental regulation dealing with such matters.

Section 7.5 Household Pets.

The following restrictions regarding the care and maintenance of pets within the Project shall be observed by each Owner and resident:

Section 7.5.1 Maximum Number of Pets.

No more than two (2) common household pets, of reasonable size, may be kept in each Unit so long as the same are not kept, bred or maintained for commercial purposes, except that caged birds or fish in an aquarium may be kept and maintained in reasonable numbers or as otherwise established by the Board. No other animals, or poultry of any kind shall be kept, bred or raised in any Unit.

Section 7.5.2 Leash Requirements for Dogs.

Dogs shall only be allowed on the Common Area when they are leashed and otherwise under the supervision and restraint of their Owners.

Section 7.5.3 Pets and Common Areas.

No household pets shall be left chained or otherwise tethered in the Common Area. Pet owners shall be responsible for the prompt removal and disposal of pet wastes deposited by their pets within the Project.

Section 7.5.4 Owner Responsibility for Conduct of Pet.

Each person bringing or keeping a pet on the Property shall be solely responsible for the conduct of such pets.

Section 7.5.5 Association Not Responsible for Conduct of Pets.

The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet.

Section 7.5.6 Pet Rules.

The Board of Directors shall have the right to establish and enforce additional regulations imposing standards for the reasonable control and keeping of household pets in, upon and around the Property to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Property by the other Owners. The regulations adopted by the Board may, in the Board's sole discretion, limit the right to maintain dogs, cats and other pets that are likely to be within the Common Areas from time to time, to Owners; provided, however, that any such rule shall not affect the rights of any lessee under a lease agreement in effect at the time the rule is adopted.

Section 7.5.7 Pets Constituting a Nuisance.

The Board may, in its sole discretion, prohibit maintenance within the Property of any animal that constitutes a nuisance (whether due to its size, viciousness, unreasonable noise or otherwise) with respect to any other residents.

Section 7.6 Signs.

No commercial advertising signs or billboards shall be displayed on any Unit or posted within or on any portion of the Common Area except that Owners may post on their Units any signs required by legal proceedings and a single "For Rent," "For Lease" or "For Sale" sign of reasonable dimensions as allowed by Civil Code Section 713. Also, Owners may place noncommercial signs or posters which do not exceed nine (9) square feet, or flags or banners which do not exceed fifteen (15) square feet, in their yard or windows, on their door or outside wall, and on their balcony. These items may be made of paper, cardboard, cloth, plastic or fabric. They may not be made from lights, building or paving materials, plants, or balloons. Also, Owners may not paint the messages on architectural surfaces. Notwithstanding the foregoing, the Board may prohibit and order the immediate removal of any sign which poses a threat to health or safety, or which is in violation of law.

Section 7.7 Insurance, Compliance with Law and Owner Personal Property.

Nothing shall be done or kept in any Unit or in the Project that might increase the rate of, or cause the cancellation of, insurance on the Project, or any portion of the Project, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his or her Unit that violates any permit, law, ordinance, statute, rule or regulation of any local, county, state or federal body. No Owner shall allow furniture, furnishings, or other personal property belonging to such Owner to remain within any portion of the Project except in such Owner's Unit or Exclusive Use Common Area and except as may otherwise be permitted by the Board.

Section 7.8 Abandoned Personal Property.

Personal property, other than vehicles which are not subject to this Section, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty four (24) hours upon any portion of the Common Areas. If the Board or its designate, in its sole discretion, determines that the property has been abandoned or is being kept, stored, or allowed to remain on the Common Areas in violation of this subparagraph, the Board may place a notice on the personal property and/or on the front door of the Owner's Unit specifying the nature of the violation and stating that after two (2) days the property maybe removed or either discarded or stored by the Board in a location which the Board may determine, at the Owner's or user's sole cost and expense. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

If two (2) days after such notice is placed on the personal property and/or the front door of the Unit, the violation continues or thereafter occurs within six (6) months of such notice, the personal property maybe removed in accordance with the notice, without further notice to the Owner or user of that personal property.

In addition to the provisions above, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this paragraph may, without prior notice to the Owner or user of the personal property, be removed or either discarded or stored by the Board in a location which the Board may determine at the Owner's or user's sole cost and expense; provided, however, the Board shall give to the Owner notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

If personal property is a removed in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to

impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

Section 7.9 Antennas and Satellite Dishes.

Owners may install satellite dishes not in excess of one (1) meter in diameter on Exclusive Use Common Areas appurtenant to their unit, such as balconies, terraces, decks or patios. Owners may not install satellite dishes or antennas on any Common Areas such as roofs, hallways, walkways or exterior walls of the buildings. The Association may adopt rules permitting installation of satellite dishes or antennas in Common Areas, but adoption of said rules are solely within the discretion of the Board of Directors. The Board may adopt rules regulating the installation of antennas or satellite dishes on Exclusive Use Common Areas so long as the rules do not unreasonably delay or prevent installation, maintenance or use, unusually increase the cost of installation, maintenance or use, or preclude reception of an acceptable quality signal. Any rules implemented for legitimate safety restrictions are permitted, even if they impair installation, maintenance or use of the satellite dish or antenna. Other than as set forth above, no Owner shall place or maintain any outside television, radio or other antenna within the Project except upon written authorization by the Board of Directors.

Section 7.10 Storage, Antennas; Clotheslines.

Storage shall be permitted only as set forth in the Association's Rules and Regulations. No exterior clotheslines or individual outdoor television (except as specified in Section 7.9 above) or radio antennas, shall be erected or maintained in the Project. No automobile overhaul or maintenance work, in the absence of an emergency, shall be performed in and about the Project.

Section 7.11 Windows and Unit Maintenance.

Each condominium owner shall keep clean and in good condition and repair the windows and interior of his unit and shall not permit laundry or other unsightly items to extend from or hang over the windows or balcony, if any, of his unit. All draped windows shall have, facing the exterior, either draperies, drapery lining or easements of a neutral color matching the stucco color approved by the Board of Directors.

Section 7.12 Protection of Views.

The Board of Directors shall use its best efforts to trim landscaping, including trees and bushes, to preserve ocean views from the individual units. The Board of Directors shall be charged with balancing the interest of preserving existing mature landscaping on the project with that of preserving ocean views from the individual units.

ARTICLE VIII

ARCHITECTURAL CONTROL

Section 8.1 Improvements in General.

No Improvement of any kind shall be commenced, erected or maintained within the Common Area, nor shall any exterior addition to or change or alteration be made in or to any Unit or to any Exclusive Use Area until the plans and specifications showing the nature, color, kind, shape, height (including front, side and rear elevations), materials, and location of the same shall have been submitted for review by the Association's Architectural Review Committee as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation and approved in writing by the Board of Directors.

Section 8.2 Appointment of Architectural Review Committee.

The Board of Directors may appoint an Architectural Review Committee (hereinafter referred to as "Committee") composed of not less than three nor more than five members. Committee members appointed shall be from the membership of the Association. A majority of the Committee may designate a representative to act on its behalf. Members of the Committee shall serve for a term of one year. In the event of the death or resignation of any member of the Committee, a successor shall be appointed by the Board. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. In the event the Board has not appointed a Committee, it shall fulfill the duties of that Committee until such time as members are appointed to it in accordance with this Section.

Section 8.3 Submission of Plans; Action by Committee.

Plans and specifications for the proposed Improvement shall be submitted to the Committee or professional management company by personal delivery, mail, or fax. In the event the Owner does not receive written approval or disapproval of the plans within forty-five (45) days after said plans and specifications have been submitted, then said plans shall be deemed disapproved.

Section 8.4 Approval/Disapproval of Plans.

Any approval or disapproval of submitted plans shall be in writing. An approval of plans by the Board may be qualified. This means that the Board may add additional requirements and/or conditions to be followed by the Owner in order to complete the requested project. Any additional requirements or conditions imposed by the Board must be in writing. In the event a plan is

disapproved, in whole or in part, the Board must include an explanation specifying why the proposed change was disapproved.

Section 8.5 Reconsideration.

If plans are disapproved; the Owner is entitled to reconsideration by the Board of Directors of the Association if a written request is made within thirty (30) days of the Owner's receipt of the disapproval. The Board of Directors shall schedule a meeting for reconsideration of said Owner's plans to take place within thirty (30) days after receipt of such request. The Owner is entitled to be present at the meeting for reconsideration and to address the Board. The Owner shall also be entitled to bring one or more representatives to assist in explaining technical or design issues with regard to the plans. Said meeting for reconsideration does not need to be noticed to the membership of the Association. The Board shall have fifteen (15) days from the date of the meeting for reconsideration in which to render its decision in writing to the Owner. This paragraph does not require reconsideration of a decision that is made by the Board of Directors where the Board of Directors is acting as the Committee pursuant to Section 8.2 herein.

Section 8.6 Architectural Rules and Regulations.

The Committee may, subject to review by the Board of Directors, from time to time adopt, amend and repeal rules and regulations to be known as "Architectural Rules." Said rules shall interpret and implement the provisions of this Declaration and Civil Code Section 1378 by setting forth the standards and procedures for the review and approval of proposed Improvements and guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended for use within the Properties, provided that said rules shall not be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Rules and this Declaration, the Declaration shall prevail. Architectural rules, regulations and/or guidelines shall be adopted consistent with the procedures of Section 5.5 herein.

Section 8.7 Owner Responsibility for Modification.

As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition, or alteration. At the discretion of the Board or the Committee, an Owner may be made to verify such condition of approval by written instrument acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

Section 8.8 Waiver.

The architectural standards and the enforcement thereof may vary from one term of the Committee or Board of Directors to another term of the Committee or Board. These variances shall not constitute a waiver by the Committee or the Board of the right to adopt and enforce architectural standards under this Section. No decision by the Committee or Board shall constitute a binding precedent with respect to subsequent decisions of the Committee or Board. However, nothing in this paragraph shall permit the Committee or the Board to enforce retroactively its architectural standards against any Owner whose architectural change has been approved under the architectural standards of a previous Committee or Board.

Section 8.9 Inspection of Work.

With consent of the Owner, which consent shall not be unreasonably withheld, any member or authorized representative of the Committee may, at any reasonable hour and upon reasonable notice, enter and inspect any Condominium which has been the subject matter of an approval of a submission for an Improvement. A request for inspection must be made within six (6) months after substantial completion of the Improvements. Such entry shall be made with as little inconvenience to the Owner as reasonably possible, and any damage caused thereby shall be repaired by the Association. If the Committee finds that such work was not done in substantial compliance with the approved plans and specifications, it shall notify the Owner in writing of such noncompliance, specifying the particulars of noncompliance and shall require the Owner to remedy the same within thirty (30) days from the date of notification of such noncompliance. If the noncompliance is not corrected within thirty (30) days, the Board may utilize the procedures set forth in the article entitled "Dispute Resolution and Enforcement," Article XII, herein to gain compliance.

Section 8.10 Nonliability of Committee Members.

Neither the Association, the Board or the Committee or designated representatives thereof, shall be liable for damages to any Owner submitting plans or specifications to them for approval, or to any Owner in the Project affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance, unless due to willful misconduct or bad faith of that person. The Committee's approval or disapproval of a submission shall be based solely on the considerations set forth in this Article, and in such rules and regulations as may be promulgated by the Committee, and the Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plans or design from the standpoint of structural safety and conformance with building or other codes.

Section 8.11 Annual Architectural Procedures Disclosure.

The Association shall annually provide its Members with notice of any requirements for Association approval of physical changes to the property. The notice shall describe the types of changes that require Association approval and shall include a copy of the procedure used to review and approve or disapprove a proposed change.

Section 8.12 Cease and Desist.

In the event unapproved architectural Improvements are commenced by or on behalf of an Owner or his or her tenant, the Association shall have the right to take immediate action to halt such activity, including issuing a cease and desist order and obtaining immediate judicial relief necessary to preserve the status quo.

ARTICLE IX

INSURANCE

Section 9.1 Insurance Coverage.

The Association shall purchase, obtain and maintain the following types of insurance, if and to the extent they are available:

Section 9.1.1 Fire and Casualty.

The Association shall obtain and maintain a master or blanket policy of fire and casualty insurance, replacement cost basis, on all Common Areas within the Property, including the buildings containing Units except as provided in Section 9.2 and 9.9 below. The insurance shall be kept in full force and effect at all times.

Section 9.1.2 Liability.

A comprehensive public liability insurance policy insuring the Association, its agents, and the Owners and occupants of the Condominiums and their respective family members, guests, invitees, and agents against any liability incident to the ownership or use of the Common Area or any other Association owned or maintained real or personal property;

Section 9.1.3 Workers Compensation.

Worker's compensation insurance to the extent required by law;

Section 9.1.4 Directors Liability.

Officers and directors liability insurance;

Section 9.1.5 Fidelity Bond.

Appropriate fidelity bond coverage to protect against dishonest acts by the Association's officers, directors, employees, trustees, and all others who are responsible for handling funds of the Association if deemed necessary by a majority of the Board; and,

Section 9.1.6 Other Insurance.

Such other insurance as the Board in its discretion considers necessary or advisable.

Section 9.2 Scope of Coverage. The Board shall have the sole authority to determine the amount, terms, and coverage of any policy required hereunder. The amount, terms, and coverage of policies other than casualty required hereunder (including the type of endorsements, the amount

of the deductible, the named insureds, the loss payees, standard Mortgage clauses, and notices of changes or cancellations) shall be no less than that which is customary for similar policies on similar Projects in the area, except that the Board will make every effort to obtain the minimum coverages set forth in Civil Code Section 1365.9(b) for the protection of the individual Owners from being named in lawsuits in regard to actions arising out of injuries occurring on the Common Areas. With regard to casualty coverage, the coverage shall be a "bare-walls" policy, unless the Board, in its sole discretion, determines that it is in the best interests of the Association for the policy to include some or all of the interior building fixtures such as carpet, wall coverings, cabinetry, etc. Unless included under the Association's policy, the Unit Owner shall be responsible for insuring such items as interior building fixtures and personal property within their own policy (commonly referred to as an ISO Form HO-6 Policy).

Section 9.3 Insurance Trustee.

Each Owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including, without limitation, representing the Owners in any proceeding, negotiation, settlement, or agreements.

Section 9.4 Waiver of Subrogation.

Any insurance maintained by the Association shall contain a waiver of subrogation as to the Association's officers, directors, and Members, the Owners of the Condominiums and Mortgagees, and, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

Section 9.5 No Duplicate Insurance Coverage.

No Condominium Owner shall purchase duplicate insurance coverage on their Condominium Unit when said coverage has already been purchased by the Association. If any Owner violates this provision, any loss in insurance proceeds to the Association will be chargeable to the Owner who acquired the duplicate insurance.

Section 9.6 Unit Owner Insurance Required.

It is the responsibility of Owners to insure their personal property against loss and obtain personal liability insurance covering the contents of their individual Units. In addition, any improvements made by or acquired by an Owner within his or her Unit shall be separately insured by an Owner, with the insurance limited to the type and nature of coverage commonly known as tenant's improvements. Any Owner failing to purchase said insurance waives any claim he or she may have against the Association for damage to the interior of his or her Unit, arising out of

negligence, nuisance, or breach of contract on the part of the Association, so long as the damage or loss would have been covered under a standard Condominium Homeowner Policy (HO6) had it been in force at the time of the loss.

Section 9.7 Insurance Deductible.

The amount of the deductible portion of any insurance coverage maintained by the Association shall be established in the reasonable discretion of the Board. In the event a claim is made against the insurance policy maintained by the Association, and proceeds from that policy are used to repair damage, the responsibility for the deductible shall be as follows:

Section 9.7.1 Damage due to Act or Omission.

Should the damage result from the act or omission of any party, whether such act or omission is negligent or willful, such party shall be responsible for the deductible.

Section 9.7.2 Damage from Owner-Maintained Item.

Should the damage result from an item, the maintenance of which is the responsibility of an Owner, the Owner responsible for the maintenance shall be responsible for the deductible.

Section 9.7.3 Damage from Association-Maintained Item.

Should the damage result from an item, the maintenance of which is the responsibility of the Association, the Association shall be responsible for the deductible.

Section 9.7.4 Damage from Multiple Sources.

Should the damage result from more than one source, the responsibility for the deductible shall follow the percentage of fault.

Section 9.8 Annual Insurance Review.

The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining if such insurance is adequate. Such responsibility may be performed and shall be deemed reasonably performed by the Board requesting the Association's insurance agent to verify that the insurance policies in existence meet the needs of the Association.

Section 9.9 Failure to Acquire Insurance.

The Association, and its Directors and Officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain any insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the

Board, in its sole discretion, determines is unreasonable under the circumstances, or the Members fail to approve any Assessment increase needed to fund the insurance premiums. In such event, the Board promptly shall notify each Member and any Mortgagee entitled to notice that the specific insurance will not be obtained or renewed. In making a determination as to whether to acquire any such insurance, the Board may base its decision upon, among other things, a vote of the Owners.

ARTICLE X

DAMAGE OR DESTRUCTION

Section 10.1 Destruction; Proceeds Exceed 85 Percent of Reconstruction Costs.

If there is a total or partial destruction of the improvements in the Project, and if the available proceeds of the insurance carried plus reserve account funds designated for the repair or replacement of capital improvements which have been damaged are sufficient to cover not less than eighty five percent (85%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, Owners then holding at least seventy five percent (75%) of the total voting power of Owners present and entitled to vote, in person or by proxy, at a duly constituted meeting or voting by written ballot, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction is to take place the Association shall be required to execute, acknowledge, and record in the office of the County Recorder of the County not later than one hundred twenty (120) days from the date of destruction, a certificate declaring the intention of the Owners to rebuild.

Section 10.2 Destruction; Proceeds Less Than 85 Percent of Reconstruction Costs.

If the proceeds of insurance carried plus reserve account funds designated for the repair or replacement of capital improvements which have been damaged are less than eighty five percent (85) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt, unless within ninety (90) days from the date of destruction, Owners then holding at least sixty six and two thirds percent (66 2/3%) of the total voting power of Owners present and entitled to vote, in person or by proxy, at a duly constituted meeting or by written ballot, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction are to take place, the Association shall execute, acknowledge, and record in the office of the County Recorder of the County not later than one hundred twenty (120) days from the date of destruction a certificate declaring the intention of the Owners to rebuild.

Section 10.3 Apportionment of Assessments.

If the Owners determine to rebuild pursuant to Sections 10.1 and 10.2, above, each Owner shall be obligated to contribute his or her equal share of the cost of reconstruction or restoration over and above the available insurance proceeds. The Association may levy a Special Assessment for the

cost of restoration or reconstruction over and above the insurance proceeds, which may be enforced under the lien provisions contained in Article IV or in any other manner provided in this Declaration.

Section 10.4 Rebuilding Contract.

If the Owners determine to rebuild, the Board or its authorized representative shall, after obtaining bids from at least two reputable contractors as required by the paragraphs above, award the repair and reconstruction work to the lowest bidder that otherwise meets the requirements set forth by the Board in soliciting bids. The Board shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds held by the trustee shall be disbursed to this contractor according to the terms of the contract. It shall be the obligation of the Association to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

Section 10.5 Rebuilding Not Authorized.

If the Owners determine not to rebuild, then, subject to the rights of Mortgagees, any insurance proceeds then available for such rebuilding shall be distributed to each Owner (of an uninhabitable damaged Unit which is not to be rebuilt) according to the relative fair market values of their Condominiums. The Board shall retain the services of an independent appraiser who shall be a Member of the Society of Real Estate Appraisers (SREA) or other nationally recognized appraisers' organization and who shall determine such relative values in accordance with the standards of such organizations as of a date immediately prior to such destruction. The Association shall have the duty, within 120 days from the date of destruction, to execute, acknowledge, and record in the office of the County Recorder of the County, a certificate declaring the intention of the Owners not to rebuild.

Section 10.6 Minor Repair and Reconstruction.

The Association shall have the duty to repair and reconstruct improvements, without the consent of Owners and irrespective of the amount of available insurance proceeds, in all instances of partial destruction where the estimated cost of repair and reconstruction does not exceed \$20,000 in the case of Common Area improvements. The Association can levy a special Assessment for the cost of repairing and reconstructing improvements to the extent insurance proceeds are unavailable, such Assessment to be levied as described in Section 10.3, above, (but without the consent or approval of Owners, despite any contrary provisions in this Declaration).

Section 10.7 Revival of Right to Partition.

On recordation of a certificate described in Section 10.5, above, the right of any Owner to partition through legal action as described in Article 2.5 shall revive immediately. In addition, each

Owner, by accepting a deed to a Condominium, grants to the Association an irrevocable power of attorney to sell the entire Project for the benefit of the Owners, to terminate the Declaration, and to dissolve the Association. The net proceeds following sale of the Project and dissolution of the Association shall be distributed to the Owners in the same manner that insurance proceeds are distributed under Section 10.5, above, with all Owners sharing in said proceeds as set forth therein.

ARTICLE XI

CONDEMNATION

Section 11.1 Sale by Unanimous Consent.

If an action for condemnation of all or a portion of the Properties is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all the Owners and after notice to all Mortgagees, the Properties, or a portion of it may be sold by the Board acting as irrevocable attorney-in-fact of all of the Owners for a price deemed fair and equitable by the Board, but in no event less than the aggregate unpaid balance of all first Mortgages encumbering Condominiums within the Properties.

Section 11.2 Distribution of Proceeds of Sale.

If a sale occurs under Section 1, and the agreement of sale does not by its terms apportion the sale proceeds among the Owners and their respective Mortgagees, the Board shall select an independent SREA appraiser who shall determine the relative fair market values of the Condominiums affected by the sale, in accordance with SREA standards. The sale proceeds shall then be apportioned among the Owners, and their respective Mortgagees according to such relative values.

Section 11.3 Distribution of Condemnation Award.

If the Properties, or a portion of it, are not sold, but is instead taken, the judgment of condemnation shall by its terms apportion the award among the Owners and their respective Mortgagees.

Section 11.4 Appraisal if Condemnation Award Not Apportioned.

If the judgment of condemnation does not by its terms apportion the award among the Owners and their respective Mortgagees, the Board shall select an independent SREA appraiser who shall determine the relative fair market values of the Condominiums affected by the condemnation, in accordance with SREA standards. The award shall then be apportioned among the Owners, and their respective Mortgagees, according to such relative values.

ARTICLE XII

DISPUTE RESOLUTION AND ENFORCEMENT

Section 12.1 Introduction.

This Article sets forth the methods available to the Board of Directors and membership for resolving disputes within the Association along with the Association's powers of enforcement of the Governing Documents. Sections 12.2 and 12.3 are not mandatory and may be utilized in accordance with the rules and policies of the Association. Section 12.4 providing for Internal Dispute Resolution is mandatory when initiated by an owner. Section 12.5 is mandatory in the event that an Owner or the Association anticipates proceeding to litigation.

Section 12.2 Informal Notice of Violation.

The Board may authorize an informal written notice of violation to any Owner whose Unit or any resident therein is violating a provision of the Governing Documents. Its function is notification to the Owner of the violation and requesting their voluntary cooperation in correcting it.

Section 12.3 Disciplinary Proceedings.

The Board of Directors may take the following actions against any person or entity whose act or failure to act violates or threatens to violate any provision of the Governing Documents: (1) impose monetary penalties, including late charges and interests; (2) suspend voting rights in the Association until the violation has been cured; and (3) suspend use privileges for Common Area recreational facilities until the violation has been cured.

The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Board. The Board shall substantially comply with the due process requirements of Section 7.5 of the Bylaws before imposing any of the foregoing penalties.

Section 12.4 Internal Dispute Resolution Procedure.

The procedures set forth herein is for the purpose of resolving a dispute between the Association and Owner involving their rights, duties or liabilities under the Governing Documents or the California Non-Profit Mutual Benefit Corporation Law. Either party to a dispute within the scope of this Section 12.4 may invoke the following procedure.

Section 12.4.1 Meet and Confer.

The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.

Section 12.4.2 Rights to Meet and Confer.

An Owner in the Association may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.

Section 12.4.3 Designation of Representative.

The Association's Board of Directors shall designate at least one (1) member of the Board to meet and confer.

Section 12.4.4 Timeliness of Meeting.

The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other and confer in good faith and in an effort to resolve the dispute.

Section 12.4.5 Agreement in Writing.

A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Association.

Section 12.4.6 Agreement Judicially Enforceable.

An agreement reached under Section 12.4 herein binds the parties and is judicially enforceable when it meets the requirements set forth in Civil Code §1363.840(c).

Section 12.5 Alternative Dispute Resolution Procedure.

Prior to the commencement of an enforcement action, the party initiating the case shall comply with Civil Code Section 1369.530 by serving a Request for Resolution on the other party in accordance with the statute.

Section 12.6 Litigation.

The Association or any Owner shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, Association Bylaws and rules and regulations, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations, the right to recover damages or other dues for such violation; provided, however, that with respect to Assessment liens, the Association shall have the exclusive right to the

enforcement thereof. In any action to enforce the governing documents, the prevailing party shall be entitled to an award of reasonable attorney fees and court costs.

Section 12.7 Immediate, Temporary Relief.

Nothing in this Article shall be construed to prevent the Association or any Owner from obtaining immediate, temporary judicial relief by way of temporary restraining order or other means necessary to preserve the status quo, pending compliance with the provisions of this Article or applicable law as circumstances warrant.

ARTICLE XIII

MORTGAGEE PROTECTION

Section 13.1 Rights of Lenders.

Any Condominium Owner may encumber his Condominium by deed of trust or mortgage. The beneficiary of the deed of trust or the mortgagee of a mortgage is referred to in this paragraph as a "lender". A breach of any of the provisions of this Declaration of Restrictions shall not affect or impair the lien or charge of any bona fide deed of trust or mortgage made in good faith and for value encumbering any of the Condominiums. A lender who acquires title by foreclosure or deed in lieu of foreclosure shall not be obligated to cure any breach of this Declaration of Restrictions, which is noncurable or of a type which is not practical or feasible to cure. It is indeed that any loan to facilitate the resale of any Condominium after foreclosure or deed in lieu of foreclosure is a loan made in good faith and for value and entitled to all of the rights and protection afforded to other lenders. All liens created by the Declaration of Restrictions, including, but not limited to, any regular or special assessments for the payment of money, shall be subordinate to the lien created by any such bona fide deed of trust or mortgage given to any lender. It is specifically understood, however, that a lender is liable for all such assessments during the actual period of time the lender holds title to a condominium. This liability for assessments on the part of the lender is on a pro-rata basis with the pro-rata period commencing on the date the lender acquires title and ending upon resale or other transfer by the lender, whereupon the liability will attach to the transferee. No amendment to this Declaration of Restrictions shall affect any lender to the extent it defeats the lender's then priority position with respect to its lien or which would convert the lender's loan to an illegal status under such governmental regulations then applicable to the lender involved, unless the approval in writing of any such lender is obtained. Any amendment to this Declaration of Restrictions adopted in accordance with paragraph 14.4 shall affect all lenders provided written notice of the proposed amendment is sent to all lenders then of record and the written approval is obtained from the lenders holding the beneficial interest of at least seventy-five percent (75%) of the number of mortgages or trust deeds of record constituting valid first liens against the project or any portion of it. Because of its financial interest in the project, a lender may appear at meetings of the voting owners and of the Board of Directors to present objections if violations of this Declaration of Restrictions have not been remedied. A lender is authorized to furnish information to the Board of Directors concerning the status of any loan encumbering a Condominium. All applicable fire and extended coverage insurance policies shall contain loss payable clauses naming the lenders who encumber Condominiums by deed of trust or mortgage, as their interests may appear.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.1 Severability.

Invalidation of any one of these covenants, conditions and restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 14.2 Term.

The covenants and conditions of this Declaration shall run with and bind the Project, and inure to the benefit of and shall be enforceable by the Association or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs and successors and assigns for a period of thirty years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3) of the then Owners, is recorded agreeing to terminate the effectiveness of this Declaration.

Section 14.3 Construction.

The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a uniform plan for the maintenance of a residential community of common recreational facilities and Common Areas. Paragraph headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 14.4 Amendments.

This Declaration of Restrictions may be amended by the affirmative assent or vote of a majority of the total voting power of the Association then, whereupon the amendment shall become effective upon its recordation in the office of the County Recorder of San Diego County, California; but no such amendment shall affect the rights of the holder of any mortgage or deed of trust recorded prior to the recordation of the amendment, unless approved in accordance with paragraph 13.1.

Section 14.5 Singular Includes Plural.

Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

Section 14.6 Nuisance.

The result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 14.7 Waiver.

The failure of any Owner, the Board of Directors, the Association, or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges, or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 14.8 Conflict of Governing Documents.

If there is a conflict among or between the Governing Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Governing Documents in the following order: Articles, Bylaws, and Rules and Regulations of the Association.

Section 14.9 Joint and Several Liability.

In the case of joint ownership of a Condominium, the liability of each of the Owners thereof in connection with the liabilities and obligations of Owners set forth in or imposed by this Declaration shall be joint and several.

Section 14.10 Annexation Pursuant to Approval.

Upon the vote or written consent of not less than sixty-six and two-thirds (66²/₃) percent of the Association voting power, any person who desires to add real property to the plan of this Declaration and to subject such property to the jurisdiction of the Association may file of record a supplementary declaration. A certificate of the President and Secretary of the Association attached to any supplemental declaration recorded pursuant to this section verifying that the required sixty six and two-thirds (66²/₃) percent of the Association voting power has approved the recordation of such supplementary declaration shall be deemed conclusive proof thereof.

Section 14.11 Statutory Changes; Conflicts; No Liability for Following Law .

Many provisions of this Declaration are drafted to comply with current California law applicable to the operation of a common interest subdivision. Provisions of these laws can and likely will change. In the event a law changes, the following shall apply:

Section 14.11.1 Changed Law Supersedes this Declaration.

In the event a law change supersedes provisions of this Declaration, such changed law shall prevail over provisions of this Declaration that conflict with the new law.

Section 14.11.2 Changed Law Allows Declaration to Prevail.

If the changed law allows this Declaration to prevail, this Declaration shall prevail.

Section 14.11.3 Changed Law Deletes Provisions Repeated in this Declaration.

If the changed law deletes any statutory requirement repeated in this Declaration, the Board may, after not less than 30 days notice to the Owners, record an amendment revising the provision of this Declaration affected by the new law to conform with the language of the new law. Such amendment to restate, verbatim, changed laws does not need to comply with the Owner approval requirements of Section 14.4 hereinabove.

Section 14.11.4 No Liability for Following Changed Law.

Provided any federal, state or local statute, law or ordinance is inconsistent with any provision(s) of this Declaration, and compliance with that statute, law or ordinance is mandatory, neither the Association, the Board, nor any director thereof, shall have any liability for complying with the federal, state or local statute, law or ordinance rather than with the inconsistent provision(s) of this Declaration.

IN WITNESS WHEREOF, ALTAMIRA MANAGEMENT ASSOCIATION NO. 2,
by and through its Board of Directors, hereby certifies that this First Restated Declaration was duly adopted.

Dated: 3/20/09

Mickey Stone
President

ALTAMIRA MANAGEMENT ASSOCIATION NO. 2

Mickey Stone
[Name Printed]

Dated: 3/20/09

Susan D. Brandt
Secretary

ALTAMIRA MANAGEMENT ASSOCIATION NO. 2

Susan D. Brandt
[Name Printed]

ACKNOWLEDGMENT

State of California)
 : s.s.
County of _____)

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

WITNESS my hand and official seal.

[Seal]

ACKNOWLEDGMENT

State of California)
 : s.s.
County of _____)

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

WITNESS my hand and official seal.

[Seal]

Exhibit "A"

**ALTAMIRA MANAGEMENT ASSOCIATION NO. 2
MAINTENANCE RESPONSIBILITY CHECKLIST**

ASSOC	OWNER	<u>INTERIOR</u>
	X	Appliances
	X	Carpeting
	X	Caulking - bathrooms, kitchens
	X	Ceilings – interior of Unit*
	X	Chimneys - sweeping
	X	Doorbell - components
	X	Doors - glass
	X	Fireplaces - repair firebox
	X	Fireplaces - repair mantle
	X	Fireplaces - repair stone/bricks
	X	Floor coverings
	X	Garbage disposal
X		Hot water recirculating systems and pumps
	X	Lighting fixtures
	X	Painting
	X	Utilities and wiring – electrical wiring
	X	Wallpaper and paneling
	X	Water heaters – serving only one Unit
	X	Window glass
	X	Window flashing and waterproofing
	X	Window frames and hardware
		<u>ROOF</u>
X		Roof decking
X		Roof flashing
X		Roof shingles/tiles
X		Roof underlayment
X		Roof vents

* If damage occurs to an interior ceiling as a result of the direct negligence of the Association in maintaining the project or the failure of a common area component, the Association shall be responsible for repair of the ceiling.

Exhibit "A"

ASSOC	OWNER	<u>EXTERIOR</u>
	X	Air conditioning system - exclusively serving a Unit
	X	Antennas or Satellite Dishes - exclusively serving a Unit
X		Building surfaces
X		Caulking
X		Chimneys
	X	Doors - entry - flashing/waterproofing
	X	Doors - entry - frame and door
	X	Doors - entry - locks and hardware
	X	Doors - entry - painting
	X	Doors - screen
	X	Doors - sliding
	X	Doors - security
X		Driveways
X		Faucets, handles, washers - common area
	X	Faucets, handles, washers - exclusively serving a Unit
X		Fences - common area
X		Fences - separating common area from exclusive use area
X		Fences - separating Unit exclusive use area
X		Fireplace - repair exterior stone/bricks
X		Gutters and downspouts
	X	Heating system - exclusively serving a Unit
X		Lighting fixtures - common area
	X	Lighting fixtures - switches located within a Unit
	X	Screens - windows and doors
X		Sidewalks - entry in courtyards
	X	Skylights - flashing and waterproofing
	X	Skylights - frame and glass
X		Slab leak repair
X		Stucco - painting/coloring
X		Stucco - repair and replacement
X		Trim - wood - maintenance and replacement
X		Trim - wood - painting

Exhibit "A"

X		Water heaters – serving more than one Unit
ASSOC	OWNER	<u>EXCLUSIVE USE AREAS/PATIOS/BALCONIES</u>
X		Deck membranes/waterproofing
X		Deck railings - painting
X		Patios/balconies - painting
	X	Patio covers - painting
	X	Patio covers - repair and replace
	X	Patio sliding doors - glass
	X	Patio sliding doors - flashing and waterproofing
	X	Patio sliding doors - frames and tracks
	X	Patio sliding doors - hardware
		<u>GARAGES/CARPORTS</u>
	X	Doors - garage - electric openers and remote controls
X		Doors - garage - frame and door
	X	Doors - garage - locks and hardware
X		Doors - garage - painting exterior
	X	Doors - garage - painting interior
		<u>UTILITIES/WIRING/PLUMBING</u>
	X	Cable TV wiring
	X	Drains - bathtubs/showers/sinks
	X	Electrical panel/circuit breakers - within Unit
X		Electrical switches, sockets, wallplates - exterior
	X	Electrical switches, sockets, wallplates - interior
	X	Electrical wiring - interior
	X	Plumbing fixtures - toilets/tubs/sinks/faucets/etc
X		Plumbing lines - interior (within walls, floors, and/or ceilings)
X		Sewer lines - in crawl spaces or under slab, and exclusively serving one Unit
	X	Telephone wiring
	X	Toilets - wax rings
	X	Toilets - fixtures and components

Exhibit "A"

X	
X	

Water lines - shutoff to Unit interior

Water lines - shutoff to street

COMMON AREAS

X	
X	
X	
X	

Carpeting - common areas, recreation areas

Carport/parking space - concrete/asphalt surfaces

Common area improvements

Landscaping - common area

	X
--	---

Laundry room - cleaning

X	
---	--

Laundry room - machines, plumbing & electric

X	
---	--

Lighting fixtures

X	
---	--

Pool

X	
---	--

Pump and filter room

X	
---	--

Sewer lines - common area - below ground

X	
---	--

Sidewalks

X	
---	--

Spa

X	
---	--

Streets - maintenance and repair

X	
---	--

Recreation center

PEST CONTROL

	X
--	---

Spraying for household pests (ants, fleas, etc.) – Unit

X	
---	--

Spraying for landscaping pests

X	
---	--

Termite eradication and repair of damage occasioned by wood-destroying pests or organisms