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TOWN HALL DRAFT

**SECOND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOURTH WALNUT CREEK MUTUAL
a California nonprofit mutual-benefit corporation**

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. 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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DRAFT

SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOURTH WALNUT CREEK MUTUAL a California nonprofit mutual-benefit corporation

THIS SECOND RESTATED Declaration of Covenants, Conditions and Restrictions (“CC&Rs”) is made on the date hereinafter set forth by FOURTH WALNUT CREEK MUTUAL, a California nonprofit mutual benefit corporation (the “Mutual”).

RECITALS

- A. WHEREAS, the Mutual is the successor in interest to Terra California, which, as Declarant, executed those certain Declarations of Covenants, Conditions, and Restrictions as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (such Declaration of Covenants, Conditions and Restrictions, together with the amendments described in Exhibit “A” are hereinafter collectively referred to as the “Original Declarations”);
- B. WHEREAS, the Original Declarations establish certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with and are binding upon all parties having or acquiring any right, title, or interest in those certain parcels of real property located in the City of Walnut Creek, Contra Costa County, State of California and more particularly described in Exhibit “B” attached hereto and incorporated herein by this reference (collectively, the “Development”);
- C. WHEREAS, the current Owners of the Development, through their then existing California nonprofit mutual benefit corporations, Fourth Walnut Creek Mutual and Walnut Creek Mutual No. Twenty-One, voted to merge those two corporations, as more particularly set forth in the Agreement of Merger attached hereto as Exhibit “C” and incorporated herein by this reference, and to amend and consolidate the Original Declarations into a single Amended Declaration, recorded February 14, 2003 as Document No. 2003-0072096-00 in the Official Records of Contra Costa County (hereinafter referred to as the “Amended Declaration”). As more particularly set forth in the Agreement of Merger, Fourth Walnut Creek Mutual was the name of the surviving corporation;
- D. WHEREAS, Terra California (and/or the predecessors of Declarant) entered into one or more Agreements Establishing Covenants, Conditions and Restrictions with Golden Rain Foundation of Walnut Creek, including those entitled “Agreement Establishing Covenants Conditions and Restrictions” as more particularly described in Exhibit “D” attached hereto and incorporated herein by this reference (collectively, the Establishing Agreement”);
- E. WHEREAS, the Establishing Agreement provides at Subsection B of Section 13 that any amendment, modification or termination of said Establishing Agreement shall require: (i) the approval of Golden Rain Foundation of Walnut Creek and

three-fourths (3/4) of the record owners of all of the property described in Exhibit “B” attached to the Establishing Agreements, and (ii) recordation of an instrument documenting such approval;

- F. WHEREAS, the Members, in accordance with the procedures for Amendment set forth in the Amended Declaration, desire to amend, modify, and otherwise change the Amended Declaration and all approvals required to amend and restate the Amended Declaration have been obtained;
- G. WHEREAS, Project Nineteen, a cluster of condominium units which was formerly part of Third Walnut Creek Mutual in Walnut Creek, California, disengaged from the Third Walnut Creek Mutual and became part of Fourth Walnut Creek Mutual by the affirmative vote of members in Project Nineteen and of the Fourth Walnut Creek Mutual, being officially annexed into the Mutual January 1, 2010, via an Amendment to the Amended Declaration, recorded November 25, 2009 as Document No. 2009-0279590-00 in the Official Records of Contra Costa County;
- H. NOW, THEREFORE, pursuant to Article 11 of the Amended Declaration, the Members constituting at least a Majority of Total Voting Power of the Members of the Mutual, do hereby declare that the aforesaid Amended Declaration, only as they pertain to the Members of the Mutual, be and hereby are **AMENDED AND RESTATED IN THEIR ENTIRETY** as set forth within this Second Restated Declaration of Covenants, Conditions & Restrictions of Fourth Walnut Creek Mutual. This Second Restated Declaration of Covenants, Conditions & Restrictions of Fourth Walnut Creek Mutual replaces and supersedes all previously-recorded Declarations of Covenants, Conditions and Restrictions, and Amendments thereto, of Fourth Walnut Creek Mutual;
- I. **IT IS FURTHER HEREBY DECLARED** that all of the real property described herein, including all improvements thereon, constitutes a “condominium project” within the meaning of Civil Code section 4125;
- J. **IT IS FURTHER HEREBY DECLARED** that the Development (as defined herein) is also a “senior citizen housing development” as defined in Civil Code section 51.3(b)(3) and is operated as “Housing for Older Persons” as defined in the United States Fair Housing Amendments Act of 1988, 42 U.S.C.S. section 3607(b)(2);
- K. **IT IS FURTHER HEREBY DECLARED** that all of the real property described herein is held and owned and shall be held, owned, operated, managed, conveyed, hypothecated, encumbered, leased, used, occupied, and improved subject to the following covenants, conditions and restrictions, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the said real property and every part thereof, and of fostering the development, management, improvement, enjoyment, and sale of the said real property and any part thereof; and

- L. IT IS FURTHER HEREBY DECLARED that all of the covenants, conditions, and restrictions herein set forth shall constitute enforceable equitable servitudes as provided in Civil Code section 5975, shall constitute covenants that shall run with the said real property, and shall be binding upon and inure to the benefit of each Owner of any portion of the said real property or of any interest therein and their heirs, successors, and assigns.

ARTICLE 1: DEFINITIONS

1.1 “Architectural Standards” means those rules, policies, and guidelines which govern the making of physical changes, alterations, repairs or improvements to Units, Common Areas and Exclusive Use Common Areas.

1.2 “Articles” means the Mutual’s Articles of Incorporation.

1.3 “Assessment” means any Regular Assessment, Special Assessment, Reimbursement Special Assessment, or any other assessment levied, imposed, or assessed against a Member’s Unit in accordance with the provisions of the Governing Documents or applicable law. The “Regular Assessment” may also be referred to as the “Annual Assessment” or the “coupon.”

1.4 “Balcony” shall mean a raised platform, typically enclosed by a railing, adjacent to an upper-level Unit, the upper level of a Unit, or the lower level of a Unit which is not located at ground level, the exclusive use of which is set aside, allocated, assigned, and/or restricted to the exclusive use of the Residents of the Unit to which it is adjacent. Balconies are Exclusive Use Common Area.

1.5 “Board” or “Board of Directors” means the Board of Directors of the Mutual.

1.6 “Budget” means a pro forma operating budget, showing the Mutual’s estimated revenue and expenses on an accrual basis, for a twelve (12) month period.

1.7 “Bylaws” means the duly adopted Bylaws of the Mutual, including any amendments.

1.8 “Capital Improvement” means the original construction of an improvement that did not previously exist, as distinguished from the repair, upgrade, or replacement of an existing improvement.

1.9 “Carport” means a covered space located in the Common Area established and designed for the parking of motor vehicles, the exclusive use of which is set aside, allocated, assigned, and/or restricted to the exclusive use of the Residents of a particular Unit, as set forth on the recorded grant deeds for that Unit or Carport. Carports are Exclusive Use Common Area.

1.10 “CC&Rs” means this Second Restated Declaration of Covenants, Conditions and Restrictions and any amendments to these CC&Rs.

1.11 “Common Area” means all real and personal property, Improvements, and airspace comprising the Development which is owned by all of the Owners in common, but excluding the Units. Some portions of Common Area are Exclusive Use Common Area.

1.12 “Common Expenses” means the costs, expenses and charges in connection with maintaining, managing, insuring, operating, repairing, improving or replacing the Common Areas or managing the affairs of the Mutual. Common Expenses include, but are not limited to, those amounts reasonably necessary for Reserves.

1.13 “Condominium” means an estate in real property, as defined in Civil Code section 4125, consisting of an undivided interest in all or any portion of the Common Area together with a separate fee interest in a Unit and all easements appurtenant thereto as described in the CC&Rs or in the deed conveying a Condominium.

1.14 “Condominium Plan” means, collectively, the diagrammatic descriptions of the Development that identify the boundaries of Units, some or all of the Exclusive Use Common Areas and the Common Area. The Condominium Plans are attached to each Original Declaration, as more particularly described in Exhibit “A” hereto.

1.15 “Davis-Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.

1.16 “Development” means all the real property described in these CC&Rs which comprises the Fourth Walnut Creek Mutual condominium project, including such additions thereto as may hereafter be brought within the jurisdiction of the Mutual.

1.17 “Director” means any member of the Mutual’s Board of Directors.

1.18 “Elevated Walkway” means a Common Area walkway which is raised above ground level and typically includes walls and/or railings. Some Elevated Walkways may be Exclusive Use Common Area.

1.19 “Entry” shall mean the numerical designation used in the Rossmoor development for a group of residences served by a common driveway running off a named street. The Entry number is typically posted on a sign located at the juncture of the driveway entrance and the named street.

1.20 “Exclusive Use Common Areas” means those portions of the Common Area which serve a single Unit, including but not limited to patios, decks, Balconies, Carports or other assigned parking spaces, and assigned storage lockers.

1.21 “Foundation” means the Golden Rain Foundation of Walnut Creek, a California nonprofit mutual benefit corporation.

1.22 “Foundation’s Governing Documents” shall mean, collectively, the Foundation’s Articles of Incorporation and bylaws, as amended from time to time, any policies and resolutions

adopted by the Foundation's board of directors and distributed to the Foundation's members, and the Trust Agreement.

1.23 "Governing Documents" means these CC&Rs and any other documents which govern the operation of the Mutual, including, but not limited to, the Articles of Incorporation, Bylaws, Architectural Standards, Condominium Plan, Policies, Rules and Regulations, and Election Rules, as may be amended from time to time.

1.24 "Guest" or "invitee" means a person who is temporarily on the premises by the express or implied invitation of a Resident.

1.25 "Improvements" means all buildings and other structures located within the Development, including, but not limited to, streets, sidewalks, and utilities.

1.26 "Lease" or "Rent" and all related forms of such words, whether such terms are capitalized or not, mean and include leases, rental agreements, licensing agreements, leasing, renting, licensing, to lease, to rent, to license and all related word forms as the context dictates.

1.27 "Lender" means the holder of a first mortgage or deed of trust given by a Member (or their predecessor in interest), the lien of which mortgage or deed of trust is superior to all other monetary encumbrances, except real property taxes and Assessments.

1.28 "Maintenance" or to "maintain" (whether the term is capitalized or not) shall mean the act of caring for property, preserving it from failure or deterioration, including but not limited to painting, caulking, cleaning, and minor, non-structural upkeep.

1.29 "Manager" means any Person or company employed or retained by the Mutual to oversee the operation, maintenance, and management of the Mutual.

1.30 "Map" or "Subdivision Map" means, collectively, the following maps:

- a. "Subdivision 3919, City of Walnut Creek, Contra Costa County, California," filed July 15, 1969, in Book 127 of Maps, pages 8 and 9, in the Office of the County Recorder of Contra Costa County;
- b. "Subdivision 3916, City of Walnut Creek, Contra Costa County, California," filed July 15, 1969, in Book 127 of Maps, pages 10 and 11, in the Office of the County Recorder of Contra Costa County;
- c. "Subdivision 3962, City of Walnut Creek, Contra Costa County, California," filed September 24, 1969, in Book 128 of Maps, pages 15 and 16, in the Office of the County Recorder of Contra Costa County;
- d. "Subdivision 3976, City of Walnut Creek, Contra Costa County, California," filed December 17, 1969, in Book 129 of Maps, pages 21 and 22, in the Office of the County Recorder of Contra Costa County;

- e. “Subdivision 3996, City of Walnut Creek, Contra Costa County, California,” filed March 4, 1970, in Book 129 of Maps, pages 39, 40 and 41, in the Office of the County Recorder of Contra Costa County; and
- f. “Subdivision 3979, City of Walnut Creek, Contra Costa County, California,” filed February 19, 1971, in Book 135 of Maps, pages 23, 24 and 25, in the Office of the County Recorder of Contra Costa County.

1.31 “Member” means the Owner, whether one or more Persons, of a Condominium within the Development as evidenced by a publicly-recorded deed to the Condominium, but excluding any Person or Persons having such an interest in the Condominium merely as security for the performance of an obligation. Membership is appurtenant to and may not be separated from the record fee ownership of a Condominium and may not be transferred, encumbered, pledged, alienated, or otherwise separated in any way, except in connection with the record sale of a fee interest of the Condominium to which it is appurtenant. Where the CC&Rs impose restrictions on a Member, the restriction also applies to Member’s Tenants, and Member’s and Tenant’s family, Guests and Invitees.

1.32 “Membership Approval” or “Approval of the Membership” means approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum, unless otherwise provided in the Governing Documents.

1.33 “Mortgage” means a deed of trust as well as a mortgage in the conventional sense.

1.34 “Mortgagee” means a beneficiary (or its assignee) under a deed of trust to a Condominium and the term “First Mortgagee” refers to a beneficiary (or its assignee) under a deed of trust to a Condominium with priority over all other Mortgagees and deeds of trust.

1.35 “Mutual” means the Fourth Walnut Creek Mutual, a California nonprofit, mutual-benefit corporation. The Mutual includes, when the context requires, its Officers, Directors, employees and agents.

1.36 “Officer” means the president, vice-president, secretary, treasurer, and any other officer of the Mutual, as defined in the Bylaws.

1.37 “Operating Accounts” means any account into which the Mutual’s Assessments are deposited and out of which the Mutual’s operational expenses are paid.

1.38 “Owner” means the owner, whether one or more Persons, of the publicly-recorded fee title to any Condominium within the Development, but excluding any Person or Persons having such an interest in the Condominium merely as security for the performance of an obligation.

1.39 “Parking Areas” includes those portions of the Development used for the parking of vehicles.

1.40 “Regular Assessments” means assessments other than Special Assessments and Reimbursement Assessments, levied or imposed against Members in order to perform the Mutual’s obligations under the Governing Documents or the law. Regular Assessments are sometimes called the “Annual Assessment” or the “coupon.”

1.41 “Reimbursement Special Assessments” or “Reimbursement Assessments” means those Special Assessments levied against Members and for which the Member is responsible for expenses incurred by the Mutual arising out of: (i) actions or omissions of Members, Tenants or their respective family, guests, invitees, vendors, or pets; (ii) materials or services provided to Members, Tenants or their respective family, guests, invitees, animals or pets; or (iii) conditions originating in a Unit.

1.42 “Renovation” means any improvements, additions, alterations, or modifications made by a Member in or to any Unit or Exclusive Use Common Area.

1.43 “Repair” (whether the term is capitalized or not) means the minor restoration of property that is torn, broken, or otherwise damaged, or has sustained wear, tear, or deterioration such that minor restoration is necessary.

1.44 “Replacement” or to “replace” (whether the term is capitalized or not) means substantial reconstruction, restoration, or substitution of the whole or a substantial part of property that has been damaged or destroyed through usage or through hazard or catastrophe such that it is no longer useable or serviceable in its current condition.

1.45 “Reserves” or “Reserve Accounts” means those monies set aside in a separate account for anticipated long-term maintenance, repair, replacement and restoration of major Common Area components of the Development or Improvements upon the Common Areas, and any other obligations of the Mutual that are authorized by either the Governing Documents or law.

1.46 “Residence” means a Person’s home; the place where someone lives.

1.47 “Resident” means any Person who resides in a Unit within the Development whether or not such Person is an Owner.

1.48 “Rules and Regulations” or “Rules” means the rules, regulations, and policies adopted by the Board to interpret and implement the Governing Documents and for the orderly conduct of the business of the Mutual.

1.49 “Senior Housing Residency Restrictions” means the residency policy described in Section 7.17.

1.50 “Separate Interest” means an individual Unit.

1.51 “Special Assessments” means assessments levied from time to time against Members if at any time during the fiscal year the Regular Assessments are inadequate to perform the Mutual’s obligations under the Governing Documents or the law, including, but not limited

to, Common Area maintenance, repairs, replacements, unexpected expenses, capital improvements, and emergency repairs.

1.52 “Tenant” or “Lessee” means a Person who has been given the right to temporary use and occupancy of a Unit owned by a Member, whether such right to occupy and use is granted by a lease, rental agreement, license, or any other written agreement and whether consideration is paid in the form of money or any other tangible or intangible thing of value.

1.53 “Unit” or “Manor,” which terms are synonymous and may be used interchangeably, means those elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Development. Boundaries, inclusions and exclusions are as defined in the respective applicable Condominium Plan, as set forth below:

- a. Boundaries. The boundaries of each Unit are the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows, and doors. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the Condominium Plan, are conclusively presumed to be its boundaries, rather than the metes and bounds, or other description, expressed in the deed or Condominium Plan, regardless of settling or lateral movement of a building and regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of a building.
- b. Inclusions. The following are part of each individual Unit: (i) the airspace and all improvements to and within the airspace encompassed by the unfinished interior surfaces of the perimeter walls, floors (but not flooring), ceilings, windows and doors, including, but not limited to, paint, wall coverings, carpet and padding, hard-surfaced flooring, cabinets and counters, electrical fixtures, plumbing fixtures, and interior walls, (ii) the unfinished interior surfaces of the perimeter walls, floors (but not flooring), ceilings, windows and doors themselves, (iii) electrical switches and outlets that service the Unit; and (iv) utility installations, fixtures, cabinetry, and appliances located within the Unit’s boundaries and/or which exclusively serve the Unit including, without limitation: oven, range, and fans; garbage disposal unit; dishwasher unit; refrigerators; freezers; washing machines, dryers, and vents; hot water heaters; heaters/furnaces; lighting fixtures; heating conduits; any Board approved air conditioning units, condensers, and equipment; plumbing fixtures including bathtubs, sinks, and wash basins, shower stalls, toilets, and metal plumbing fixtures (including diverters); telecommunications, internet, and cable facilities; and interior partitions which are located entirely within the boundaries of the Unit they serve.
- c. Exclusions. The following are not part of an individual Unit and are deemed to be part of the Common Area: Bearing walls; any equipment, mechanical devices, security system components, and Utility Lines that service more than one Unit and that either (a) are located within any Unit or (b) pass through any portion of any Unit.

1.54 “Utility Lines” means sewer lines, storm drains, water pipes, electricity lines, gas lines, telephone lines or cables, television cables, satellite dish cables, heating and air conditioning conduits, heating and air conditioning ducts, heating and air conditioning flues, fiber optic cables, data lines, community security systems, and other similar lines, pipes, cables, ducts, flues, and conduit pipes.

1.55 “Voting Power” means the total number of Units entitled to vote.

1.56 Definitions of other Terms. Unless the context clearly requires otherwise, all other terms are defined in the Davis-Stirling Act.

ARTICLE 2: MEMBERSHIP RIGHTS AND PRIVILEGES

2.1 Management and Operation. The Mutual shall manage and operate the Development in accordance with the Governing Documents and California law. The Mutual shall have all of the powers set forth in the Governing Documents, together with the general power to do any and all things that a nonprofit mutual benefit corporation may lawfully do under California law, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

2.2 Membership. Membership in the Mutual shall include, and shall be limited to, all Owners of any Condominium located within the Development. Membership shall be appurtenant to and may not be separated from ownership of a Condominium, and shall not be transferred, encumbered, pledged, alienated or hypothecated in any way, except upon the transfer or encumbrance of the Condominium to which it is appurtenant. Any attempt to make a prohibited transfer is void. Upon any transfer of title to a Condominium, including a transfer upon death of an Owner, membership in the Mutual shall pass automatically to the transferee.

2.3 Voting Rights. In all matters submitted for a membership vote, Members are entitled to one (1) vote per Condominium (regardless of the number of Members having an interest in the Condominium).

2.4 Board of Directors. The affairs of the Mutual shall be managed by or under the direction of a Board of Directors, the members of which shall meet the qualifications as set forth in the Bylaws. Directors shall be elected or appointed as provided in the Bylaws.

2.5 Mutual Policies. Subject to Civil Code section 4340 *et seq.*, the Board of Directors shall have the power and the authority to establish, promulgate, amend, repeal and enforce such Policies as the Board deems necessary for the management and operation of the Development and the conduct of business and affairs of the Mutual.

2.6 Relationship to Foundation. The Mutual is one of several common interest developments located within the senior housing community known as Rossmoor (the “Rossmoor developments”). The Rossmoor developments are managed and operated by various associations known within Rossmoor as “mutuals.” The mutuals (including the Fourth Mutual) are the beneficiaries under a certain trust agreement. The Foundation is the trustee under the trust agreement. By the terms of the Foundation’s Articles of Incorporation and the trust agreement, the primary purpose of the Foundation is to act as trustee with respect to all land and

improvements owned by the Foundation and to provide services and furnish community facilities to the mutuels and for the benefit of the residents of the Rossmoor developments. Among other things, the Foundation is required by the trust agreement to collect for the costs of such services and facilities, such costs to be allocated pro rata among the mutuels that are beneficiaries under the trust based on the number of the members of the respective mutual. The portion of these costs of the Foundation allocable to the Mutual is included in the component of the Annual Assessment imposed by the Mutual, as provided in Section 13.5.

2.7 Membership in the Foundation. Membership in the Foundation is distinct from membership in the Mutual and shall be as determined by the Foundation pursuant to its duly adopted Articles of Incorporation, Bylaws, and/or other applicable instruments.

2.8 Inspection of Records. Members have the right to inspect records of the Mutual as provided for in the Bylaws and by law.

2.9 Ingress, Egress and Support. Members have a nonexclusive easement appurtenant to and for the benefit of their Units for ingress, egress, and support over, across and through the Common Area and every portion of any Unit required for the structural support of the Unit.

2.10 Easement for Use and Enjoyment. Members have a nonexclusive easement of use and enjoyment of the Common Areas, subject to the rights of the Mutual as described in the Governing Documents and the Mutual's right to reasonably limit the number of guests of Members.

2.11 Encroachment Easement. Members agree that minor encroachments of the Common Area on Units or of Units on the Common Area or on other Units are permitted and that valid easements for the encroachments exist. Such minor encroachments are not encumbrances on either the Units or the Common Area.

ARTICLE 3: MEMBERSHIP OBLIGATIONS

3.1 Obligation to Follow Governing Documents. Members, Tenants and Residents must follow the Mutual's Governing Documents and ensure their respective family, guests, and invitees abide by the Governing Documents.

3.2 Security. Neither the Mutual nor any Officer, Director, Committee member, employee or agent of the Mutual are insurers or guarantors of any level of security within the Development. Members are responsible for their own security and must take appropriate measures to ensure their own security and that of their family, guests, invitees and Tenants. Members agree not to rely on any security measures provided by the Mutual. The Mutual, its Officers, Directors, Committee members, employees and agents are not liable for any loss or damage from failure to provide adequate or effective security measures.

3.3 Purchase Subject to Violations. Buyers take ownership of Units subject to any violations by prior Members, Tenants or their respective family, guests, invitees, or pets, of the Governing Documents concerning the Unit, whether such violations were disclosed by the seller of the Unit and whether the Mutual knew of the violations at the time of sale. Such buyers are

liable for correcting such violations upon demand by the Mutual. Assessments, fines, and other charges not secured by a lien on the Unit prior to transfer of title are exempt from this provision.

3.4 Notice of Transfer of Ownership. No later than five (5) days after the assignment, sale, quitclaim or other transfer of their Units, Members must notify the Mutual of the name, address, phone number, and email address of the transferee and the nature of the transfer.

3.5 Easement for Maintenance. Each Member has easements across Units and Common Areas as may be necessary for installing, maintaining, repairing, or replacing Utility Lines which cannot reasonably be serviced from their Units. Access to Units and Common Areas is limited to a reasonable work area and for a reasonable time. Except in emergencies, reasonable notice and consent to perform such work, which may not be unreasonably withheld, must be obtained from the affected Unit Owner and/or the Mutual, as applicable. Immediately after the work is completed, Members must restore affected Units and/or the Common Areas to the same or better condition than they were in prior to the commencement of such work. Such restoration work on affected Units and Common Areas must be done promptly at the sole expense of the Member performing the installation, repair, or maintenance work.

3.6 Recommendation to Carry Insurance. Members are recommended to purchase insurance for their Separate Interests, at their sole expense, as more fully described in Article 15 in these CC&Rs entitled "Insurance."

3.7 Liability for Damage.

- a. Members are liable for any and all damage to the Units, Common Areas, including Exclusive-Use Common Areas, and any personal property caused by the Member, Member's Tenant, Residents, occupants, or their respective family, guests, invitees, vendors, or animals.
- b. The Mutual and all Members must repair, restore, remediate or replace any damaged portion of the Development as required by these CC&Rs. However, the Mutual may impose a Reimbursement Special Assessment against any liable Member for all costs incurred by the Mutual for such repairs, restoration, remediation or replacement. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924b, and 2924c.

3.8 Correction of Violations. Following notice and a hearing and a finding by the Mutual of a violation of the Governing Documents, the Mutual will have the right, but not the duty, to correct or cause to be corrected the violation, including entering a Unit with the permission of a Member owning the Unit, which permission will not be unreasonably withheld. All expenses incurred by the Mutual to correct the violation will be recovered from the Members owning the Unit as a Reimbursement Assessment following notice and a hearing. If permission for entry into the Unit is not granted, the Mutual may enforce the violation by any other means allowed by the Governing Documents or the law.

3.9 Reimbursement to Mutual. If the Mutual provides materials or services that benefit a particular Member, such Member must reimburse the Mutual for the costs the Mutual incurred. If not, the Mutual may impose a Reimbursement Special Assessment against the Member in the amount of such costs.

3.10 Liability for Mitigation. Members are liable for expenses incurred by the Mutual in mitigating or repairing damage to Units, Common Areas, and Improvements due to damage: (i) originating from Member's Unit, including, but not limited to, flood, fire, mold, insect, or rodent infestation; or (ii) from the negligence or willful misconduct of such Member, Member's Tenant, or their respective family, guests, or pets. If not repaid, the Mutual may impose Reimbursement Special Assessments against liable Members.

3.11 Guests. Each Member is liable to all other Members and the Mutual for the conduct, behavior, and violations of Persons visiting the Member or Member's Tenant in the Development.

ARTICLE 4: DUTIES OF THE MUTUAL

4.1 Powers of a Nonprofit Corporation. The Mutual has all of the powers of a nonprofit mutual-benefit corporation organized under the laws of the State of California, operating for the benefit of its Members as provided for in Corporations Code §7140.

4.2 Maintain Common Areas. Unless otherwise provided in these CC&Rs, the Mutual must maintain, repair, and replace the Common Areas and perform other obligations as set forth in Article 6 of these CC&Rs.

4.3 Incur and Pay Expenses. The Mutual is empowered to incur and pay the expenses of the Mutual, which include, but are not limited to, legal and accounting services; utilities; insurance; management services; vendor services, such as security, landscaping, garbage collection, pest control, street sweeping, cleaning, painting, and other such services; maintenance, repair, reconstruction, and replacement of all or any portion of the Common Areas or the personal property acquired by the Mutual; supplies and materials; and such other services for the use, enjoyment and protection of the Development and its Residents and occupants as the Board may determine from time to time are reasonable, proper, or desirable.

4.4 Rules and Policies. The Board may adopt, amend, and repeal Rules and Policies regarding any matter set forth in the Governing Documents, including, but not limited to: (i) the use, occupancy, and maintenance of the Development; (ii) the general health, welfare, peace, comfort, safety and security of Residents in the Development; and (iii) the interpretation and implementation of the Governing Documents.

4.5 Foreclose, Hold Title and Make Conveyances. The Mutual is authorized to lien and foreclose upon any Unit for non-payment of Assessments, to take title to the Unit, to assume or otherwise pay off encumbrances, and to acquire, hold title to, lease and convey, with or without consideration, real and personal property and interests.

4.6 Fee Limitation. The Mutual may not impose fees that exceed the amount necessary to defray the costs for which the fee is levied.

4.7 Utility and Cable Easements. The Mutual is hereby granted easements to enter into Units as is necessary or prudent to: (i) install, maintain, repair, and replace Common Area Utility Lines; and (ii) install, operate, maintain, repair, and replace transmission lines and other facilities for a community television system, high-speed internet lines, or other similar systems; provided that any damage to a Member's Unit caused by such work must be repaired to the condition it was in prior to the repair at the Mutual's expense and in a timely fashion.

4.8 Granting Utility Easements. The Board is authorized to grant easements and rights of way in, under, or through the Common Areas for constructing, erecting, operating, maintaining, repairing, and replacing utilities and similar services.

4.9 Limitation on Granting Easements. Granting any Member an easement for exclusive use of any portion of the Common Areas requires Approval of the Membership except if the easement is for any of the reasons stated in the Davis-Stirling Act.

4.10 Borrow Money. The Mutual may borrow and repay monies, as needed to discharge its duties, and pledge or assign Special Assessment rights, as security for repayment of such borrowed money. Except for emergencies, the aggregate total of all loans made by the Mutual in a given fiscal year may not exceed five percent (5%) of the budgeted gross expenses for the same fiscal year, without Membership Approval.

4.11 No Power to Encumber Real Property. The Common Area of the Mutual may not be encumbered as security for a debt.

4.12 Represent Mutual in Litigation. The Mutual, by its Board, may institute, defend, settle, or intervene in litigation, arbitration, mediation, administrative proceedings, or any other legal proceeding in any capacity necessary to represent the interests of the Mutual.

4.13 Receive and Dispose of Property. Subject to the Section of these CC&Rs entitled "Limitations on Transfer of Real Property", the Mutual may acquire, hold, lease, encumber, convey, or otherwise dispose of real and personal property and to take real and personal property by will, gift, bequest or any other legal transfer. Any funds or property so received must be used consistently with the purposes for which the Mutual was formed.

4.14 Limitations on Disposition of Personal Property. The Board may not, without Membership Approval, dispose of during any fiscal year personal property owned by the Mutual having an aggregate market value in excess of five percent (5%) of the Mutual's budgeted gross expenses for that year.

4.15 Limitations on Transfer of Real Property.

- a. The Board may exchange, sell, dedicate, or otherwise transfer real property owned by the Mutual, but not any portion of the Common Area, only on the following conditions:
 - i. Approval by a majority of the Voting Power of the Mutual must first be obtained, except for the sale or other transfer of property acquired by the Mutual in foreclosure proceedings.

- ii. For any exchange of real property, the property received by the Mutual must be of equal or greater value than the property given.
 - iii. Any dedication of property must only be to a public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Mutual.
 - iv. If the exchange, sale, dedication or other transfer of real property requires an amendment to the Governing Documents, any approval of such exchange, sale, dedication or other transfer by the Board must be conditioned upon approval of such amendment.
- b. The Common Area of the Development, or any portion thereof, is not subject to partition or sale except as provided in Civil Code §§4610 and 4630 and related case law.

4.16 Capital Improvements. The following applies to Common Area Capital Improvements:

- a. Authority. The Board may alter, remove or replace Common Area improvements as-needed to carry out their duties.
- b. Defined. “Capital Improvement” means any substantial discretionary addition to the Common Areas or significant alterations to the appearance of the Development. A Capital Improvement is not defined to mean additions or upgrades to Common Area materials which are necessary or prudent to comply with building or safety codes, or to prevent property damage or personal injury, or to reduce operating or maintenance costs for the Common Areas or to comply with Reserve component repairs or replacements.
- c. 5% Limitation. Capital Improvements may not be made to the Common Areas in any fiscal year in excess of five percent (5%) of the Mutual’s budgeted gross expenses for that year, without Membership Approval.
- d. Obsolescence. If the Board determines that any Common Area Improvement is obsolete, and/or no longer brings sufficient value to the Mutual to justify its upkeep, and the cost to remove the amenity is more than 5% of the budgeted gross expenses for that fiscal year, the Board must obtain Membership Approval to remove the amenity.

4.17 Vendor Contract Limitations. Except for the contracts listed below, the Mutual is prohibited from entering into any contract for services which binds the Mutual for a period for more than two (2) years, without Membership Approval.

- a. Public Utility Contract. A contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission. However, the term of the contract must be for the shortest term for which the supplier will contract at the regulated rate.

- b. Fire and Burglary. Contracts for terms up to three (3) years to lease or service burglar and/or fire alarm equipment or provide protective services.
- c. Bulk Cable Service. Contracts for terms up to five (5) years to provide cable, internet, or satellite communications service.
- d. Laundry Machines. Contracts for laundry machines for terms up to three (3) years.
- e. Insurance. Contracts for insurance, if the policies do not exceed three (3) years duration.
- f. Reserve Studies. Contracts for up to three (3) years for reserve studies.

4.18 Delegation to Manager. The Board may delegate any of its duties, powers, or functions to any qualified Person or management company to act as Manager, except (i) attending Board meetings and voting on motions; (ii) electing officers; (iii) filling vacancies on the Board; (iv) appointment of executive committees; and (v) approving settlement agreements. Notwithstanding any delegation of duties, however, the Manager's actions are subject to the direction and supervision of the Board.

4.19 Nonprofit Character of Mutual. Notwithstanding anything contained in these CC&Rs to the contrary, the Mutual may not engage in any activity which may jeopardize the nonprofit character of the Mutual.

4.20 Discharge of Liens. When necessary, the Mutual is empowered to discharge, by payment, any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of the lien. Prior to any Board decision to discharge a lien, the Member or Members responsible for the existence of the lien must be given written notice and an opportunity to be heard by the Board and present any defenses which may exist.

ARTICLE 5: ARCHITECTURAL CONTROL

5.1 No Improvements or Alterations Without Approval. No Renovations by or on behalf of a Member in or to any Unit or Exclusive Use Common Area are permitted until plans and specifications have been submitted to and approved in writing by the Architectural Review Committee or Board. Any Renovations which are unapproved, different from those approved by the Committee, or done without required governmental permits, are automatically deemed disapproved and the Member must promptly remove or correct the disapproved Renovations to comply with the Architectural Standards, the Architectural Review Committee's or Board's approvals, and governmental requirements.

5.2 Applicants in Good Standing. Only Members in Good Standing may submit requests for architectural approval of Renovations to their Units, Exclusive Use Common Areas, or Common Areas appurtenant to their Units. A Member is in Good Standing for the purposes of this Article, unless found by the Board, at a properly noticed hearing, (1) to be delinquent in the payment of any Assessment, fee, or fine, by more than sixty (60) days, and/or (2) to be otherwise in violation of the Mutual's Governing Documents.

5.3 Right to Decorate Unit. Members are permitted to decorate the interior surfaces of the walls, partitions, ceilings, floors, and doors within their Unit, subject to any restrictions or procedures found in these CC&Rs and any Rules established by the Mutual.

5.4 No Exterior Installations. Installations of any kind, including but not limited to, trellises, awnings, electric lines, telephone lines, television antennas, satellite dishes (except as permitted by law), machines, or air conditioning units, on the exterior of the Unit or that protrude through the walls or the roof, are prohibited except as authorized by the Architectural Review Committee.

5.5 Architectural Rules. The Board is authorized to adopt, amend, and repeal Architectural Rules. These Architectural Rules interpret and implement the provisions of these CC&Rs by setting forth the standards and procedures for the review and approval of proposed Renovations, guidelines or requirements for architectural design, placement of any Renovation, color schemes, exterior finishes and materials, and similar features which are recommended or required for use within the Development, provided that the Architectural Rules meet any minimum standards required by these CC&Rs. If any conflict exists between the Architectural Rules and these CC&Rs, the CC&Rs prevail.

5.6 Architectural Review Committee. The Board is authorized to appoint an Architectural Review Committee. If the Board does not appoint one, the Board is automatically deemed to be the Architectural Review Committee. The Architectural Review Committee has the authority to approve, reject, modify, give conditional approvals, and give limited approvals of improvements and alterations as provided for in the Mutual's Architectural Standards.

- a. Architect. The Board is authorized to retain the services of an architect and one or more consultants to assist the Architectural Review Committee in its duties. Compensation for consultants' services must be determined by the Board. The cost of such consultants and any related expenses may be charged to those Members submitting plans for Renovations as a Reimbursement Special Assessment. Any significant costs for which the Member will be responsible must be submitted to the Member for approval before being incurred by the Mutual.
- b. Conflicts of Interest. A Director or Architectural Review Committee member is not permitted to participate in the decision-making process of any architectural submittal made by that Director or Architectural Review Committee member or members of their family. Further, a Director or Architectural Review Committee member is not permitted to participate in the decision-making process of any other architectural submittal if the approval would result in a monetary benefit to the Director or Architectural Review Committee member or any company in which the Director or Architectural Review Committee member, or members of their family have a financial interest.

5.7 Submission of Plans and Approval Process.

- a. Plans and specifications in accordance with the Mutual's Governing Documents, describing the proposed Renovations, must be submitted to the Architectural Review Committee by personal delivery or certified mail.
- b. All approvals and rejections of requests for approval shall be in writing and shall be issued by the Architectural Review Committee and/or the Board within sixty (60) days from the date of submission of a complete application to the Architectural Review Committee and/or the Board. If the Architectural Review Committee and/or Board fails to act on a request for approval within sixty (60) days from the date of submission of a complete application, the Member shall be entitled to request internal dispute resolution, as described in Civil Code section 5900 et seq.; except that, in the case of an application for installation or use of a solar energy system subject to Civil Code section 714, any application that is not denied by the Architectural Review Committee and/or Board within forty five (45) days from receipt of a complete application shall be deemed approved; and in the case of an application for installation or use of an electric vehicle charging station subject to Civil Code section 4745(e), any application that is not denied by the Board within sixty (60) days from receipt of a complete application shall be deemed approved. Members are responsible for confirming receipt of an application by the Architectural Review Committee and/or the Board. Oral approvals will be of no force and effect.
- c. Applications shall not be approved by any individual Architectural Review Committee member or Director. In the event an individual Architectural Review Committee member or Director approves architectural plans and specifications, such approval should not be relied upon and shall not be deemed approval.
- d. The Architectural Review Committee is authorized to impose any reasonable conditions of approving an architectural application, in writing, including, but not limited to, (1) requiring modifications of particular aspects of the Member's architectural submission and/or (2) requiring the preparation, execution and recording, at the Member's expense, of a covenant establishing maintenance, repair and replacement, indemnity, and other obligations binding current and future Members owning the Unit.
- e. Applications that are disapproved must be in writing and must explain why the proposed Renovation is disapproved. The Member is permitted to seek reconsideration of a disapproved application, in writing, by the Board, unless (1) the original disapproval was made by the Board or a body that has the same membership as the Board at a meeting that satisfied the requirements of the Open Meeting Act or (2) as to any Renovations that were disallowed because they would violate the Mutual's Governing Documents, any Building, Safety and Fire Codes, or any other laws. A permissible written request for reconsideration must be received by the Board not more than forty-five (45) days after the denial. Within forty-five (45) days after receipt of the request for

reconsideration, the Board must hold an open meeting to consider the reconsideration and decide. Failure of the Board to decide within the forty-five (45) day period is deemed a decision in favor of the Member.

- f. Once an application has been approved, material modifications to the approved plans and specifications thereof are not permitted and any subsequent alterations, relocations, additions or modifications require a separate application, review and approval. If a proposed material modification is likely to materially affect other aspects or components of the work, the Board, in its discretion, may order the Member and their contractors and agents to cease working on both the modified component of the Improvement and any other affected component.
- g. Unless a shorter period is specified in the approval, Renovations approved by the Architectural Review Committee must be completed within one (1) year of the Member receiving approval. Renovations not completed within one (1) year must be resubmitted for approval. The Architectural Review Committee, in its discretion, may grant short extensions for Renovations to be completed.

5.8 Rescinding Approval. The Architectural Review Committee and/or the Board is authorized to rescind previously approved plans, but only for good cause, including, but not limited to, mistake or fraud.

5.9 Failure to Comply with Approval Requirements. Any Renovations, whether in progress or completed, which (1) were not approved in by the Architectural Review Committee or Board when such approval is required by the Governing Documents, (2) violate the Architectural Review Committee's or Board's conditions of approval, the Mutual's Governing Documents, or any Building, Safety and Fire Codes, or other laws, or (3) were performed by an unlicensed contractor (where a licensed contractor was required by law, the Governing Documents, or the Architectural Review Committee's conditions of approval), are automatically deemed disapproved and in violation of the Governing Documents.

5.10 Review Fees and Remodeling Agreement. The Board is authorized to establish a schedule of fees to be charged to an applicant to reimburse the Mutual for any out-of-pocket expenses it may incur in connection with the approval of an application, including architectural and/or engineering consultant fees, attorneys' fees for the preparation of recordable covenants or easements, or other documents uniquely necessary for compliance with reasonable conditions of approval, and expert expenses for reviewing plans. In addition, the Board is authorized to adopt and require Members to sign a remodeling agreement.

5.11 Variances. The Architectural Review Committee is permitted to recommend reasonable architectural variances, subject to advanced written Board approval. The Board may grant the variance if it determines the variance will not (i) constitute a material deviation from the overall plan and scheme of the Development, (ii) result in a material detriment to the Mutual or any Member, or (iii) create a nuisance in the Common Area or affecting any other Member. The granting of a variance by the Board is not deemed a variance or waiver as to any other Unit,

nor does any variance granted affect the applicability or enforceability of any provision of this Article with respect to any other Unit.

5.12 Engineering and Code Requirements. Plans and specifications approved by the Architectural Review Committee or Board are not approved for engineering design, Building, Safety or Fire codes, or other safety specifications. Approval by the Architectural Review Committee or Board does not absolve Members of the responsibility of obtaining any necessary governmental approvals or permits. Members must ensure compliance with applicable Building, Safety and Fire codes, ordinances, and specifications.

5.13 Hard-Surface Flooring. In upper floor units, no hard-surface flooring may be replaced or installed, except in entries, bathrooms and kitchens, without prior written approval of the Architectural Review Committee and/or Board.

5.14 Inspection. The Mutual has the right, but not the obligation, to periodically inspect any work approved by the Architectural Review Committee or Board. Members must allow inspection. Any work in progress may be halted and the Member will be subject to a fine if (1) an inspection is not allowed, or (2) the Renovations are in violation of the Governing Documents as provide in the Section above entitled "Failure to Comply with Approval Requirements" or elsewhere. Such inspections do not absolve Members from compliance with the Mutual's Architectural Standards and all applicable Building, Safety and Fire codes.

5.15 Building Department and Mutual Approvals. Any construction, repair, modification, or alteration of any Improvement requiring the issuance of a building permit must be submitted by the Member to the appropriate governmental entity for review and approval. The Architectural Review Committee may impose conditions of approval which are more restrictive than conditions imposed by governmental agencies. If the conditions of approval imposed by the governmental entity and the Architectural Review Committee conflict, the more restrictive conditions control.

5.16 Mechanics' Liens. Members must ensure that no lien is placed against any other Unit, Condominium, or against the Common Areas, for labor or material furnished to their Units. If a lien is placed against the Common Areas and/or another Member's Unit or Condominium, and the responsible Member does not immediately cause the removal of the lien, the Mutual may, after written notice to the responsible Member, pay the amounts necessary to have the lien removed and levy a Reimbursement Special Assessment against the responsible Member for the monies advanced and any fees and costs incurred by the Mutual.

5.17 Hold Harmless and Indemnify. Approval of plans by the Mutual signifies only a general conformance with its Architectural Rules and not with Building, Safety, or Fire code compliance, lot lines, easements, or best construction practices. The Mutual and its Architectural Review Committee, Members, Officers, Directors, employees, and agents are not liable and must be held harmless, defended and indemnified for mistakes in judgment or negligence arising out of or in connection with the Mutual's approval or disapproval of plans.

5.18 Combining Units. Subject to the applicability of any law restricting the partitioning of Units and the Common Area, the combining of Units is not permitted without

prior written Board approval. Once combined: (i) the Percentage Interest in the Common Area allotted to the combined Units will equal the sum of the Percentage Interests in the Common Area of each of the combined Units; (ii) the Assessments due and owing on the combined Units will equal the sum of the Assessments levied against each of the respective Units so combined; and (iii) the Owner of the combined Units will continue to have the same number of votes assigned to the Units before they were combined.

5.19 No Right to Divide Units. Subject to the applicability of any law restricting the partitioning of Units and the Common Area, no Member is permitted to divide any Unit; provided, however, that once two or more Units have been combined, the Members owning such combined Units are permitted to restore them to their original dimensions and footprint only after receiving prior written Board approval.

5.20 Waiver of Liability. Neither the Architectural Review Committee or its members nor the Mutual or its Officers, Directors, employees or agents are liable for any damage, loss or prejudice suffered or claimed on account of the Architectural Review Committee's review, approval, or disapproval of any plans, drawings or specifications, or the conformance of the construction with the approved plans and any such claims are expressly waived.

ARTICLE 6: MAINTENANCE, REPAIR, AND REPLACEMENT RESPONSIBILITIES

6.1 Common Area. The Mutual shall provide maintenance, repair and replacement of the Common Area and all facilities, improvements and landscaping thereon including, but not limited to: exterior surfaces of buildings, including siding, roofs, gutters and downspouts; smoke detectors; improvements; landscaping; irrigation and/or sprinkler systems; entries, private streets, parking spaces, walkways, sidewalks, and driveways; lights and/or lighting fixtures on the private streets and/or stairways; fences, including boundary fences; retaining boundary walls; trash enclosures; laundry rooms; mailboxes; open space and greenbelt areas, and all landscaping located thereon (including the maintenance of trees planted in Common Area and the roots of any such trees); HVAC ducts located within each Unit's attic or crawl space; A/C lines located within the Common Area walls; and utility facilities (except for those utility facilities which are maintained by public or private utility companies or agencies and sewer lateral lines located outside the boundaries of a separate interest and exclusively servicing one Unit), keeping such property in good condition and repair.

6.2 Exclusive Use Common Area. The Mutual shall provide maintenance, repair and replacement of Exclusive Use Common Area only as specifically set forth herein. Mutual responsibility for Exclusive Use Common Area does not eliminate Member obligations to maintain, repair and/or replace Exclusive Use Common Area as set forth below. Any alteration, modification or replacement of Exclusive Use Common Area requires the approval of the Board pursuant to these CC&Rs and any Architectural Rules.

- a. Balconies and Elevated Walkways.
 - i. Mutual Responsibility: The Mutual shall provide maintenance, repair and replacement of Balconies and Elevated Walkways, including framing, railings, and walking surfaces.

- ii. Owner Responsibility: Each Owner shall be responsible for the day-to-day upkeep and cleaning of the Balcony and Elevated Walkways appurtenant to their Unit, keeping such spaces broom clean and free of debris. Nothing shall be placed on the railing of the Balcony or Elevated Walkways, except for Board-approved planter boxes. Nothing shall be placed on the floor of the Balcony or Elevated Walkways that will trap moisture. In particular, saucers and spacers must be placed under any potted plants. Each Owner shall also be responsible for the maintenance, repair and replacement of any Owner-caused damage to improvements in the Balcony and Elevated Walkway area, including but not limited to planting and landscaping, subject to Rules adopted by the Board.
- b. Cable, Electrical, Telephone, and Telecommunications Wiring.
 - i. Mutual Responsibility: The Mutual shall be responsible for the maintenance, repair and replacement of electrical wiring from the meter up to and including the adjacent circuit breaker, except for electrical wiring which has been altered or replaced by the Unit Owner.
 - ii. Owner Responsibility: Each Owner shall be responsible for providing maintenance, repair and replacement of electrical wiring and cable wiring located inside the Unit. Additionally, electrical wiring from the meter up to and including the circuit breaker located in the Unit and cable wiring from the box into the Unit is the responsibility of the Owner if the Owner has altered or replaced that wiring during the course of a permitted alteration project. Telephone, telecommunications, and cable wiring serving the Unit is the sole maintenance, repair and replacement responsibility of the Unit Owner.
- c. Carports.
 - i. Mutual Responsibility: The Mutual shall provide maintenance, repair and replacement of Carports, including the Carport structure and the roof system of the Carport.
 - ii. Owner Responsibility: Each Owner shall be responsible for the day-to-day upkeep and cleaning of their Carport.
- d. Common Area Ramps, Railings, and Lighting Required for Board-Approved Disability Accommodations.
 - i. Mutual Responsibility: The Mutual shall be responsible for the maintenance, repair and replacement of all Common Area ramps, railings, lighting, and other improvements required for Board-approved disability accommodations, except for stair lifts.
 - ii. Owner Responsibility: Owners shall be solely responsible for the cost of construction and/or installation of Common Area ramps, railings, and

lighting required for Board-approved disability accommodations. Owners shall be solely responsible for the maintenance, repair and replacement of stair lifts.

- e. Dryer Vent Lines and Vent Cap.
 - i. Mutual Responsibility: The Mutual shall be responsible for the maintenance, repair and replacement of the dryer vent cap and rodent-deterrent wire barrier located on the roof.
 - ii. Owner Responsibility: Each Owner shall be responsible for the maintenance, repair and replacement of the dryer vent lines located inside the walls and attic, including periodic cleaning as necessary.
- f. Electric Vehicle Charging Stations. No installation or modification of an electric vehicle charging station (“EVCS”) is permitted without the prior written approval of the Board pursuant to these CC&Rs and any Architectural or EVCS Policies or Rules.
- g. Exterior Doors other than Sliding Glass Doors.
 - i. Mutual Responsibility: The Mutual shall be responsible for all original exterior doors, including painting, maintenance, repair and replacement thereof. The Mutual is not responsible for doors which have been altered or replaced by an Owner.
 - ii. Owner Responsibility: Except for when the Mutual is responsible pursuant to Section g.i., above, each Owner shall be responsible for the painting, maintenance, repair and replacement of the exterior doors exclusively serving their Unit, including the front door and including any locks, frames, keying, and/or weather stripping, subject to Rules adopted by the Board. If the repair to any exterior door impacts or affects Common Area, the Owner must obtain the written approval of the Board before proceeding with repairs. Additionally, an Owner must obtain the written approval of the Board before replacing any exterior door. The provisions of this Section shall not be construed to permit any interference with or damage to the structural integrity of any building.
- h. HVAC Systems.
 - i. Mutual Responsibility: The Mutual shall not be responsible for HVAC systems or for any hoses or other components serving the Units, except for HVAC ducts located within each Unit’s attic or crawl space.
 - ii. Owner Responsibility: Each Owner shall be responsible for the maintenance, repair and replacement of the HVAC systems serving their Unit, including all mechanical and electrical components, thermostats, wiring, plumbing, registers, and condensate lines. Owners are responsible

for making sure the condensate lines remain unplugged, uncovered, and fully operational.

i. Mailboxes.

i. Mutual Responsibility: The Mutual shall be responsible for the repair and replacement of originally installed exterior mailboxes.

ii. Owner Responsibility: Each Owner shall be responsible for the cleaning and upkeep of their exterior mailbox, whether originally installed or replaced. If an Owner installs a new mailbox through an alteration permit, the Owner and all subsequent Owners shall be responsible for maintenance repair and replacement of the mailbox.

j. Owner-Altered Balcony Enclosures. Some Balconies have been enclosed, enlarged, or otherwise altered from the original design. Pursuant to the Alterations Permit issued at the time of the alteration, Owners are responsible for the maintenance, repair and replacement of these owner-altered balcony enclosures.

i. Mutual Responsibility: The Mutual shall not be responsible for the maintenance, repair and replacement of an Owner-Altered Balcony Enclosure for which the Owner is responsible as recorded in the Unit file at the Alterations Department

ii. Owner Responsibility: Owners shall be responsible for the cost of maintenance, repair and replacement of Owner-Altered Balconies. Owners are always responsible for day-to-day maintenance of their Owner-Altered Balconies.

k. Patios.

i. Mutual Responsibility. The mutual is responsible for the sealing and waterproofing of patio floors, including private decks, as well as the maintenance, repair and replacement of original patio doors to storage, as well as fences, walls, gates (including hinges, latches and other hardware), and any other structural components of a patio.

ii. Owner Responsibility. Owners shall be responsible for keeping patios clean and swept and are responsible for the maintenance, repair and replacement of patio flooring and sliding glass or other doors for entry to the home.

l. Plumbing.

i. Mutual Responsibility: The Mutual shall be responsible for the maintenance, repair and replacement of Common Area plumbing located on Common Area, including the plumbing pipes located inside exterior

walls of the building in which the Unit is located, and also including plumbing located inside non-bearing interior walls which are part of the Unit. Notwithstanding the foregoing allocation of responsibility, the Mutual shall not be responsible for plumbing which is altered by the Owner, except as set forth in Section I.ii., below.

- ii. Owner Responsibility: Each Owner shall be responsible for providing maintenance, repair and replacement of plumbing pipes, lines, and fixtures located within the Unit, except for pipes located inside non-bearing interior walls as set forth above. Notwithstanding the foregoing, plumbing which the Owner has altered or replaced during the course of a permitted alteration project is the maintenance, repair and replacement responsibility of the Owner regardless of location of the plumbing.
- m. Skylights and Solar Tubes. Each Owner shall be responsible for the maintenance, repair and replacement of the skylights and solar tubes serving their Unit, including all frames, the lens/bubble, flashing and other waterproofing components. Owners must contract with a licensed approved contractor to perform maintenance, repair or replacement of the skylight and/or solar tube, and an alteration application must be submitted to the Board and approved prior to commencement of the work.
- n. Smoke Detectors, Carbon Monoxide Detectors, and Hard Wired Fire Alarm System.
 - i. Mutual Responsibility: The Mutual shall provide replacement of the hard wired fire alarm system and sprinklers. The Mutual shall provide replacement of the ten-year battery-operated smoke detectors installed by the Mutual located inside the Units.
 - ii. Owner Responsibility: Each Owner shall provide maintenance, repair and replacement of the carbon monoxide detectors, and all battery-operated smoke detectors located inside the Units. Additionally, testing of battery-operated smoke detectors and/or carbon monoxide detectors that are or that may in the future be located in a Unit shall be the sole responsibility of the Unit Owner. The Mutual, and/or the Fire Marshal shall have a reasonable right of entry to inspect any Unit to verify that such Unit contains working smoke and carbon-monoxide detectors as required by law.
- o. Storage Lockers.
 - i. Mutual Responsibility. The Mutual is responsible for maintenance, repair and replacement of storage lockers, except as provided below.
 - ii. Owner Responsibility. Under no circumstances may explosives, fireworks, or highly flammable or highly corrosive materials be stored in storage lockers. Members must keep their storage lockers hazard-free at all times.

Members must supply their own locks to secure their possessions and are responsible for insuring stored items against loss.

p. Water Heaters.

- i. Mutual Responsibility: The Mutual shall not be responsible for water heaters serving the Units or for any of the hoses or other components of the water heaters serving the Units, except the Mutual shall be responsible for making sure the end of the condensate line exiting onto Common Area is clear.
- ii. Owner Responsibility: Each Owner shall be responsible for the maintenance, repair and replacement of the water heater serving their Unit, including the water lines and hoses and all other components of the water heating system.

q. Window Systems and Sliding Glass Doors.

- i. Mutual Responsibility: The Mutual's responsibility for window systems and sliding glass doors shall be limited to the maintenance and repair of originally-installed window and sliding glass door flashing.
- ii. Owner Responsibility: Each Owner shall be responsible for the maintenance, repair and replacement of the glass and weatherstripping of originally-installed window systems and sliding glass doors and for replacement of originally-installed window systems and sliding glass doors which have reached the end of their useful life and need to be replaced as a result. Owners shall be solely responsible for the maintenance, repair and replacement of all window systems and sliding glass doors of their Unit which are not originally-installed. Any replacement of window systems and/or sliding glass doors by Owners outside of any window system and/or sliding glass door replacement by the Mutual shall require architectural approval. Replacement of the entirety of a window system (i.e., replacement of a "window") and/or a sliding glass door by an Owner may occur as follows: the Owner shall hire a licensed and insured contractor, as approved by the Board, to ensure that all components of the window systems and/or sliding glass doors, including but not limited to the frames, flashing and waterproofing components, are properly installed and integrated with the building envelope. The Owner shall be responsible for all costs associated with replacement of window systems and/or sliding glass doors of the Owner's Unit.

6.3 Units. Each Owner shall be responsible for providing maintenance, repair and replacement of their Unit or any portion thereof, including any equipment, utility facilities, fixtures, cabinetry and appliances located therein, and the finished surfaces of the interior floors,

ceilings and perimeter walls of the Unit, in a safe, clean, sanitary, workable, and attractive condition, subject to the provisions of this Article 6 and Article 7.

- a. Interior Decorations. Each Owner shall have complete discretion as to furniture, furnishings, and interior decorating of the interior of their Unit and shall have the exclusive right to paint, plaster, panel, tile, paper, or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors and doors bounding their Unit, and to substitute new finished surfaces for the finished surfaces existing on said walls, ceilings, floors and doors; subject, however, to this Declaration, the Maintenance Policies, and the Architectural Rules. Installation of crown molding requires an alterations permit. In no instance shall the Owner do anything in or about their Unit or Exclusive Use Common Area that will affect the structural integrity of the building in which such Unit and Exclusive Use Common Area are located or adversely impact neighbors.
- b. Hoses and Water Lines. Owners shall be responsible for the maintenance, repair and replacement of hoses and/or water lines to all appliances, including washing machines, refrigerators, and dishwashers and shall be strictly liable for any damage or loss resulting from broken, burst, or leaking hoses and water lines.
- c. Water Damage and Mold. Each Owner is responsible for water damage to their Unit other Units, and/or the Common Area and mold in their Unit, other Units, and/or the Common Area: (i) caused by the Owner, Resident (including tenant), Guests or Invitees; or (ii) originating from one of the components, including but not limited to plumbing lines, plumbing-related fixtures, windows and sliding glass doors, which the Owner is responsible for maintaining, repairing and replacing. Each Owner shall regularly inspect their Unit for plumbing leaks, water accumulation, water intrusion through windows, doors, and roofs, and signs of mold. Owners must periodically service and/or replace supply and drain lines to appliances, heating, venting and air conditioners (“HVAC”) equipment, sinks, toilets and other components. Additionally, Owners must report evidence of plumbing leaks, water accumulation, water intrusion and/or mold to the Mutual upon discovery.

6.4 Right to Inspect and Repair. To ensure Member and Mutual obligations are met, the Mutual has the right to enter onto Balconies to inspect them. Failure by a Member to maintain a Balcony gives the Mutual the right to repair it in accordance with the notice and repair provisions of these CC&Rs. The Mutual is permitted to recover the costs of such repairs by imposing a Reimbursement Assessment and imposing a lien against the Unit, if not paid, as provided for in these CC&Rs.

6.5 Reimbursement Assessments for Damage to or Caused by Owner-Maintained Components. If, in the course of performing its obligations to maintain, repair and replace, the Mutual and/or its agents discover damage to components not otherwise the responsibility of the Mutual, the Mutual has the right, but not the obligation, to repair or replace the damaged

component(s) for which the Owner is responsible. The Owner shall reimburse the Mutual for the cost of said repair or replacement, which may be levied as a Reimbursement Assessment.

If it is determined that the cause of damage to a component, the maintenance, repair and/or replacement of which is the Mutual's responsibility, is a failed or improperly installed component for which the Owner is responsible, then the Mutual shall also have the right to replace said component and may levy a Reimbursement Assessment against the Unit Owner to reimburse the Mutual for replacement costs as well as the costs to correct the damage resulting from that component.

6.6 Owner Alterations. In the event an Owner or Resident has altered, modified, or added on to a Unit or to a component that would otherwise be the responsibility of the Mutual and which increases the maintenance, repair and/or replacement cost to the Mutual, the Owner shall reimburse the Mutual for the increased cost, which may be levied as a Reimbursement Assessment. The Mutual may condition approval of an alteration on an Owner assuming responsibility for increased maintenance costs associated with the modification. However, the Owner and their successors shall be responsible for payment of increased costs even in the absence of an express assumption of responsibility.

6.7 Repair of Damage Caused by Wood-Destroying Pests or Organisms and Other Pests. The Mutual shall bear the costs for the repair and maintenance of its Common Area (including Exclusive Use Common Area) damaged by the presence of wood-destroying pests or organisms or other pests. However, if any of the maintenance and repair work referred to in this Section is necessitated by the willful or negligent acts of the Owner, members of their household, Guests, tenants or Invitees, the costs of such maintenance or repairs shall be charged to, and paid by, the Owner as a Reimbursement Assessment. Residents shall cooperate with the Mutual to enable any fumigation work to be done promptly and effectively. Owners shall be responsible for all costs for food, lodging, and other relocation costs during the period during which the Unit is required to be vacated.

6.8 Modifications that Affect Structural Integrity or Common Systems. No Owner shall do anything in or about their Unit and/or Exclusive Use Common Area appurtenant to their Unit that will affect or compromise the structural integrity of the building in which it is located and/or the common systems, including but not limited to the plumbing and electrical systems.

6.9 Owner Liability. In the event the need for any maintenance, repair, or replacement of a component which is otherwise the Mutual's responsibility is caused by the act or omission of an Owner or members of an Owner's household, tenants, Guests, Invitees, or household animals or pets, the cost of such maintenance, repair, or replacement, including the cost of materials, labor, supplies, and services, shall be charged to, and paid by, such Owner in the form of a Reimbursement Assessment. Owners shall be further responsible for any damage to Common Area or the Unit and improvements of another Owner which emanates from an Owner's Unit or Exclusive Use Common Area appurtenant to the Unit. The cost of any such maintenance, repair or replacement of damaged components, including the cost of materials, labor, supplies, and services, shall be charged to, and paid by, the Owner responsible in the form of a Reimbursement Assessment. This provision shall apply regardless of the applicability of coverage provided by Mutual-maintained policies of insurance.

ARTICLE 7: USE RESTRICTIONS

7.1 Antennas. No antennas for transmitting or receiving radio signals or any other form of electromagnetic radiation may be installed, except as provided in the Mutual's Rules and Regulations, its Architectural Standards, and applicable law.

7.2 Barbecues. Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within ten (10) feet of combustible construction, except LP-gas cooking devices having LP-gas container with a water capacity not greater than 2-1/2 pounds [nominal 1 pound (0.454 kg) LP-gas capacity]. Hours of operation, other permissible equipment, and other rules regarding barbecue operation may be stated in the Rules and Regulations. Residents and other occupants must take reasonable precautions to minimize smoke from entering other Units.

7.3 Birdfeeders and Feeding Animals. Birdfeeders are prohibited, except for hummingbird feeders which are filled with liquid. Leaving food and water outside the Unit to feed animals, domestic or wild, is prohibited because such actions attract rodents and other pests.

7.4 Criminal Activity Prohibited. No Person is permitted to engage in criminal activities anywhere within the Development, including, without limitation, within the Common Areas, and/or any Unit. For purposes of this Section "criminal activities" includes, without limitation, drug-related activities (including the illegal manufacture, sale, distribution, use or possession of a controlled substance), gang-related activities, the unlawful use or discharge of firearms, prostitution, or any misdemeanors or felonies enumerated in the California Penal Code, or any federal criminal statute, local ordinance, regulation or other law. In addition, Members owning a Unit must prohibit, in their lease, rental agreement or otherwise, Persons who engage in criminal activities from occupying their Unit.

7.5 Flammable Materials. Except for reasonable amounts of legal ammunition for use with legal firearms, the storage or use of explosives, fireworks, or highly flammable or highly corrosive materials by Members, Tenants, Residents, or their respective family, guests, or invitees anywhere in the Development is prohibited.

7.6 Health/Safety Hazards. Members must not permit conditions which constitute a health, safety, or fire hazard to exist in their Units, Balconies, Parking Areas, or Exclusive Use Common Areas.

7.7 Hiring of Mutual Employees. Members are not permitted to hire off-duty Mutual employees to perform work. However, if Members hire off-duty Mutual employees in violation of this provision any use of off-duty employees is at the employing Member's expense and such Member is responsible for workers' compensation and payroll deductions for that employee. The Mutual is not liable for the acts or omissions of employees hired by Members while in the course and scope of employment by the Member.

7.8 Nudity. Public displays of nudity are prohibited.

7.9 Nuisance. Members are prohibited from causing or permitting any act or condition which constitutes a nuisance.

- a. Unreasonableness. To constitute a nuisance, the act or condition must be an unreasonable disturbance or annoyance, unreasonably injurious to health, indecent, or unreasonably detrimental to Persons or property.
- b. Allergies. Residents with allergies or sensitivities must, at their own expense, take precautions to protect themselves against commonplace levels of noise, odors, dust, smoke, gases, pollen, or other environmental pollutants.
- c. Board Determination. Because a nuisance is largely subjective, the Mutual is not obligated to become involved in disputes where, in the opinion of the Board, the alleged disturbance does not constitute a nuisance. Despite the Board's determination, the parties retain the right to take appropriate legal action against each other without involving the Mutual.

7.10 Obstruction of Common Areas. Obstruction or misuse of the Common Area, for other than its intended purpose, is prohibited, unless expressly permitted in writing by the Board for good cause.

7.11 Occupancy Restriction. No more than two (2) natural Persons per bedroom plus one additional natural Person may reside in a Unit. For purposes of this restriction, "reside" means to use or occupy any Unit for more than thirty (30) consecutive days and/or more than sixty (60) aggregate days, whether or not consecutive, in any one calendar year. Where the number of natural Persons residing in a Unit, as of the date these CC&Rs are recorded, exceeds the maximum number permitted in this Section, the natural Persons then residing in the Unit ("Permitted Residents") are permitted to continue residing there; provided, however, any Permitted Residents who cease to reside in the Unit cannot be replaced while the number of Residents in the Unit equals or exceeds the maximum permitted in the previous Section. Along with other remedies provided for in these CC&Rs, if the Mutual pays for water for all Units, the Board may impose a water usage surcharge per natural Person residing in a Unit in excess of the occupancy restriction.

7.12 Quiet Enjoyment. No one may engage in any behavior, whether verbal or physical, including, but not limited to, the posting or distributing of documents, openly or anonymously, anywhere in the Development, where such behavior is abusive, harassing, threatening, intimidating, defaming, slanderous, unlawfully aggressive, and/or otherwise legally actionable against other Members, Residents, guests, invitees, Directors, or the Mutual's management, employees, agents, or vendors. Because such breaches of quiet enjoyment are largely subjective, the Board may choose to act only against egregious breaches. When the Mutual chooses not to act on a complaint of breach of quiet enjoyment, or the complaining party believes the Mutual's action is not sufficient, such party may take legal action to enforce this provision against other Members and/or Residents, but is not permitted and expressly waives their right to take any action, legal or otherwise, including commencing or maintaining a lawsuit against the Mutual and/or its Officers, Directors, employees, and/or agents for their failure to act on the party's complaint and/or for the manner in which they handled it.

7.13 Residential Use. Using a Unit, or permitting a Unit or any portion of it, to be occupied or used for any purpose other than a private residential dwelling is prohibited. Units

must not be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Residents may use a room in their Unit as a home office, provided that (1) the primary use of the Unit remains as a Residence, (2) no business advertising or signage is used in connection with the home office use, (3) package deliveries are kept to a minimum, and (4) no customers, clients or patients visit the Unit. The Board may adopt additional Rules regarding the use of such home offices.

7.14 Roof Restricted Access. Members and their families, Unit Residents, guests, employees, vendors, and agents are prohibited from entering onto the Mutual's Common Area roofs without the prior written consent of the Board.

7.15 Sale of Unit. The Mutual may impose restrictions or limitations on open houses, brokers' caravans and other matters relating to the sale of a Unit in the Rules and Regulations.

7.16 Satellite Dishes. Satellite dishes may only be installed as provided for in the Rules and Regulations, Architectural Rules, and applicable law.

7.17 Senior Citizen Residential Use. Except to the extent permitted by Sections 7.13, above, and Article 8, below, Units shall be occupied and used for residential purposes only. Occupants, including guests, of each Unit, shall be subject to age and other restrictions set forth in a written policy (i.e., the Senior Housing Rules) adopted by the Board in compliance with applicable federal and California law as those laws may be amended from time to time. It is the intention of this provision to restrict occupancy to older persons or senior citizens to the fullest extent permitted by applicable law.

7.18 Signs, Posters and Flags. Signs, posters, flags, banners, notices, nameplates, cards, and advertisements of any kind may only be displayed to the public view on or from any Unit or in or on any Common Area, including any Exclusive Use Common Area, as allowed by law. Owners may display one sign in a designated area which is of reasonable dimensions and design, advertising that the property is for sale or lease, as allowed by law and subject to any restrictions in the Rules and Regulations. Commercial signs may not be displayed.

7.19 Smoking and Vaping. All smoking, vaping, and use of e-cigarettes is prohibited in Exclusive Use Common Area interiors and in Units. "Smoking" means, but is not limited to, any practice by which a substance, whether tobacco, marijuana or any other substance, is burned for the purpose of inhaling its smoke. "Vaping" means inhaling water vapor to obtain nicotine, cannabis or any other substance. "E-cigarette" means an electronic device that vaporizes liquid nicotine, cannabis or any other substance. Additional Common Area restrictions concerning Smoking, Vaping and E-cigarette use, consistent with these CC&Rs, may be adopted by the Board.

7.20 Solar Energy Systems. Solar Energy Systems may only be installed after obtaining written approval of the Architectural Review Committee and as provided for in the Rules and Regulations, Architectural Standards, and applicable law.

7.21 Spas, Hot Tubs and Saunas. No spa, hot tub, or sauna may be installed in any Unit without the written approval of the Architectural Review Committee or the Board. Such

installations must conform to the Mutual's Architectural Standards. Spas, hot tubs, and saunas are prohibited on Balconies.

7.22 Time Sharing Prohibited. Units may not be divided, used or conveyed on a time increment basis (commonly referred to as "time sharing"). The term "time sharing" is defined to include any agreement, plan, program or arrangement under which the right to use, occupy or possess a Unit or any portion of a Unit rotates or changes among various Persons, either corporate, partnership, individual or otherwise, on a periodically recurring basis.

7.23 Window Coverings. Appropriate window coverings may be installed on windows and properly maintained at all times. The color of such window coverings must be in harmony with the exterior of the structure. No window may be covered by paint, aluminum foil, newspapers, bed sheets, cardboard, blankets, or other similar items.

ARTICLE 8: LEASING AND RENTAL LIMITATIONS

In addition to the restrictions found in Article 7, that Members may not use their Units for business, commercial, manufacturing, mercantile, storing, or vending purposes, the following residential restrictions apply:

8.1 No Hotel Purposes. Units may not be rented for hotel, fractional or similar purposes.

8.2 No Short-Term and Transient Rentals.

- a. Prohibited Short Term Rental Period. Short-term and transient rentals or leases of a Unit for a period of thirty (30) days or less are prohibited.
- b. Advertising Limitation. No Unit may be advertised with Airbnb, VRBO, Flipkey, or by any other means, as being available for rent or lease for a period of thirty (30) days or less or in a manner that would suggest or imply the Unit was available for rent or lease for a period of thirty (30) days or less.

8.3 Lease of Less than Entire Unit. No Member is permitted to lease or rent less than the entire Unit unless a Member also resides in the Unit. The entire Unit, or any portion thereof as permitted herein, may only be leased or rented under a single lease or rental agreement signed by all adult Tenants occupying the Unit.

8.4 Lease and Rental Requirements.

- a. Qualification to Live in Rossmoor. All occupants must comply with age and other restrictions found in the Senior Housing Rules or other rules and policies pertaining to senior citizen residential communities adopted by the Board or the Foundation.
- b. Minimum Lease Term. The minimum term of a lease or rental agreement of a Unit must be for a period of thirty-one (31) days or more.

- c. Re-Leasing Within Thirty (30) Days of Lease Start. If a Tenant terminates their lease or rental agreement or otherwise vacates the Unit before the end of the term of the lease or rental agreement, the Member is not permitted to re-lease or re-rent the Unit until at least thirty (30) days have passed since the beginning of the term of the lease or rental agreement, unless the Member applies for and receives a hardship exception from the Board.
- d. No Assignment or Subleasing. No lease of or rental agreement regarding a Unit may be assigned. No Unit may be sublet or subleased.
- e. Copy of Lease. A copy of the written lease must be provided to the Board prior to occupancy of the Unit by a Tenant. The rental amount may be redacted in the copy provided to the Board.

8.5 Rental Cap. No more than twenty-five percent (25%) of the Units in the Development may be leased to Tenants at any given time. If a Member wishes to lease a Unit to a Tenant at a time when twenty-five percent (25%) of the Units are already being leased, the Member may appeal to the Board for a special exemption.

- a. Rental Cap Exception. All record Owners of a Unit on the date these CC&Rs are recorded may rent or lease their Unit to Tenants regardless of the percentage of rented or leased Units. Members must adhere to all other rental or lease prohibitions, restrictions, rules and requirements.
- b. Waiting List. Any Member wishing to lease a Unit must submit a written request to the Board to ensure the leasing capacity has not been met. When at least twenty-five (25%) of all Units are leased or rented to Tenants, the Board must maintain a waiting list.
- c. Units with Member in Residence Not Subject to Rental Cap. Units are not deemed to be counted toward the rental cap while a Member resides in the Unit.

8.6 Lease and Rental Agreements and Addendums.

- a. Leases and Rental Agreements in Writing. All leases and rental agreements between a Member and Tenant must be in writing.
- b. Required Lease and Rental Agreement Provisions. All provisions of any leases and rental agreements between a Member and Tenant must be consistent with and not violate any provisions of the Mutual's Governing Documents. All leases must include, at a minimum, provisions that require Tenants (1) to comply with all provisions of the Mutual's Governing Documents and (2) to be bound by and subject to the same disciplinary procedures and fines as Members.
- c. Lease Addendum. Member, Tenant, and the Mutual may also execute a "Lease Addendum" supplied by the Mutual, in which the parties allow the Mutual to directly enforce the terms of the lease or rental agreement between Member and Tenant and/or such other terms to which the parties may agree.

8.7 Governing Documents. Members must provide their Tenants with the Mutual's Rules and Regulations and ensure compliance with them.

8.8 Transfer of Common Area Privileges. Any Members residing offsite, and whose Unit is occupied by others, automatically transfers the Members' rights to use the Mutual's Common Area facilities to the Residents until the Member retakes possession of the Unit.

8.9 Transfer of Occupancy. Members living offsite must promptly provide the Mutual with the current name, address, phone number, and email address of all Unit Residents and any changes in such information.

8.10 Repairing Damage. Members are liable for all damage to the Units, Common Areas, including Exclusive-Use Common Areas, and any personal property which was caused by acts or omissions of such Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets. The Mutual is authorized, in its discretion to repair, restore or replace such damaged property and is permitted to impose a Reimbursement Special Assessment against the liable Member for all costs and expenses incurred by the Mutual from repairing, restoring or replacing the damaged property. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924b, and 2924c.

8.11 Unlawful Detainer. Members who lease their Units must ensure compliance with the Mutual's Governing Documents by their Tenants. If a Member fails to take legal action against their Tenant, who is in violation of the Governing Documents, within ten (10) days after receipt of the Mutual's written demand to do so, the Mutual is permitted to institute unlawful detainer proceedings on behalf of such Member and against the Tenant and the Mutual is hereby granted right of possession to the Unit for such purpose. The Mutual may be awarded costs of suit and/or attorneys' fees by the court as provided by law.

8.12 Assignment of Rents. As security for the payment of Assessments, fines, and other sums owed to the Mutual, Members who lease their Units pledge their rights as Landlords (including the right to receive rent) to the Mutual. If a Member becomes delinquent in payment of Assessments or fines to the Mutual, the Mutual is permitted to assign the rents payable by the Tenant to the Mutual until the Member's account is paid in full as provided for in Civil Code §2938 or any other provision of law. During the period of assignment, Members have no right to collect the assigned amounts from Tenants and may not evict Tenants for complying with the Mutual's assignment of rents.

ARTICLE 9: ANIMALS AND PETS

9.1 Pet Limitation. Usual domesticated dogs, cats, and birds may be kept in Units as pets. No more than two (2) dogs or two (2) cats or one of each may be kept as pets. Aquariums of 100 gallons or less are permitted to be maintained in Units with only non-poisonous, legal, aquatic creatures, excluding any snakes. No animal is permitted to be kept, bred, or maintained: (i) for any commercial purpose; (ii) in unreasonable numbers; or (iii) for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Members. The Board is permitted to

adopt additional Rules and Regulations regarding the quantity, kinds and sizes of pets, and tanks which may be kept and other pet issues not conflicting with these CC&Rs.

9.2 Assistance Animals. An animal otherwise prohibited by these CC&Rs, which is kept by a Resident for the purpose of servicing the Resident's qualified disability, may be kept by such Resident provided the animal is properly cared for (i.e., kept healthy, clean, and properly groomed and waste material is properly disposed of) and not unruly or disruptive (e.g., barking, growling, running loose, displaying aggressive behavior, etc.). All pet rules apply to assistance animals, unless contrary to law.

9.3 Nuisance. The Board is authorized to prohibit any animal which, in its opinion, constitutes a nuisance to other Members pursuant to evidence provided at a noticed hearing.

9.4 Dangerous Animals. No wild or undomesticated animal, or animal which the Board has determined to be aggressive or dangerous pursuant to evidence provided at a noticed hearing, is permitted to be kept in the Development. The Board is authorized to require dogs found to exhibit aggressive or dangerous behavior to wear a muzzle while in the Common Area until a further determination is made by the Board as to whether the pet will be allowed to remain in the Development.

9.5 Liability. Members are liable for any injury to Persons or property caused by any animal brought or permitted onto or kept within the Development by the Member, Member's Tenant or their respective family, guests, or invitees.

9.6 Control. Pets are permitted in the Common Area, only as permitted by the Rules or this Section. All dogs in the Common Area must be on a leash held by a natural Person capable of controlling the dog. The Mutual is permitted to remove any unleashed dog found within the Common Areas to a pound or animal shelter under the jurisdiction of the city or county in which the Development is located.

ARTICLE 10: VEHICLES AND PARKING

10.1 Management of Parking. The Mutual manages and controls the use of all Common Area parking and private streets, including the assignment of Carports and authorization to tow vehicles.

10.2 Restricted Parking. Only the following types of vehicles are permitted to be parked in parking spaces: automobiles, trucks, motorcycles, mopeds, and golf carts. Vehicles must be parked completely within the parking space. No RV, camper, boat, recreational watercraft, trailer, or any other similar oversize vehicle is permitted in any portion of the Common Areas or in any parking space.

10.3 Guest Parking. Guest parking is limited by and subject to the Mutual's Policies.

10.4 Renting of Carports. Renting or leasing a Carport to a non-Member, except to a Tenant as part of a lease of a Unit, is prohibited. However, Members may rent Carports from other Members on a month-to-month basis.

10.5 Proper Operating Condition. All vehicles parked or stored in the Development must be maintained in proper operating condition, and not be a hazard or nuisance by noise, exhaust emissions, or appearance. All vehicles parked or stored in the Development must carry current registration tags and must be insured.

10.6 Electric Vehicle Charging Stations. Members are permitted, with written approval of the Architectural Review Committee and/or Board, to install at their own expense an electric charging station compliant with Section 4745 of the Civil Code or any successor statute and the Mutual's Policies. Use of Mutual electricity to power a Member's electrical vehicle charging station is prohibited. The Mutual may impose reasonable requirements on the location and installation of the equipment. All electrical work must be done by a licensed electrician with appropriate permits.

10.7 Noise Limitation. All vehicles must be configured to operate quietly.

10.8 Repair of Vehicles. Construction, repair, or servicing of vehicles within any portion of the Development is prohibited. However, emergency repairs are permitted when necessary to move a vehicle to a proper repair facility.

10.9 Washing of Vehicles. Except as provided for in the Policies, washing or detailing vehicles in the Development is prohibited.

10.10 Fluid Leaks. Members must keep their own Carports free of fluids, such as oil, radiator coolant, brake fluid, power steering fluid and also prevent the discharge of such fluids from their vehicles or those of their Tenants, families, guests and invitees onto the Common Areas. Members who fail to do so are subject to fines or other discipline, and a Reimbursement Assessment for the cost of cleaning the affected areas.

10.11 Theft or Damage. The Mutual is not liable for any loss or damage suffered by any Member, Tenant, or guest due to theft of or damage to any vehicle or vehicle contents, unless resulting from the Mutual's intentional misconduct or gross negligence.

10.12 Impeding Access. Vehicles must not impede or prevent ready access to any door, gate, entrance, or exit.

ARTICLE 11: ENFORCEMENT OF GOVERNING DOCUMENTS

11.1 Mutual Enforcement Rights. In addition to any other rights described in these CC&Rs and without waiving the Mutual's right to institute any other enforcement measures, and subject to the notice and hearing provisions in the Bylaws and as required by law, the Mutual is authorized to enforce the Governing Documents by any of the following means:

- a. Monetary Penalties (Fines). The Board is authorized to assess reasonable monetary penalties (fines) for violations of the Mutual's Governing Documents by a Member, Member's Tenants or their respective family, invitees or guests. A monetary penalty (fine) imposed by the Mutual as a disciplinary measure for failure of a Member to comply with the governing documents, is hereby treated and deemed to be an Assessment that may become a lien against the Member's

Separate Interest, but such lien may not be enforced by the sale of the interest under Sections 2924, 2924b, and 2924c (non-judicial foreclosure). As Assessments, Members are liable for all costs of collection, including reasonable attorneys' fees, court costs, and related expenses for delinquent monetary penalties (fines).

- b. Dispute Resolution. As to any dispute between a Member and the Mutual, the Mutual is authorized to engage in Internal Dispute Resolution and/or Alternative Dispute Resolution as provided for in the Governing Documents and the law.
- c. Judicial Enforcement. A lawsuit may be filed for damages, declaratory relief, injunctive relief (whether the relief sought is mandatory or prohibitory) and/or such other relief permitted by law.

11.2 Cumulative Remedies. The respective rights and remedies, provided by the Governing Documents, under the law, or available in equity, are cumulative and the exercise of any one or more of such rights or remedies does not preclude or affect the exercise, at the same or at different times, of any other such rights or for the same or different failures of the Members or others to perform or observe any provision of the Governing Documents.

11.3 Failure to Enforce Not a Waiver. Failure to enforce the Governing Documents, whether by the Board or any Member or other Person entitled to enforce them, is not deemed a waiver of the right to do so. Waiver or attempted waiver of any provision of the Governing Documents with respect to a given Unit is not deemed a waiver of such right as to any other Unit. Additionally, violation of any provision of the Governing Documents by the Members owning any Unit or Units does not affect the applicability or enforceability of any provision of the Governing Documents against the Members owning any other Unit.

11.4 Remedy at Law Inadequate. If remedies at law for violation of the Mutual's Governing Documents are inadequate, then equitable, declaratory, and/or injunctive relief may be sought and awarded.

11.5 Right to Request Identification. All Persons using the Mutual's Common Area facilities must show proper identification when requested by Directors of the Board or the Mutual's peace officers or security personnel.

11.6 Attorneys' Fees. If any party initiates any action or proceeding to enforce or interpret the Governing Documents or California law relating to the Development, the prevailing party is entitled to recover reasonable attorneys' fees and court costs, including reasonable expert fees, as permitted by law.

ARTICLE 12: RIGHT OF ENTRY

12.1 Limited Right of Entry. During reasonable hours and subject to the notice requirements contained in this Article, the Mutual's representatives, employees, and vendors are authorized to enter Units, Common Areas, and Exclusive Use Common Areas: (i) to inspect and perform maintenance, repairs, or replacements to the Common Areas or Exclusive Use Common

Areas; or (ii) to mitigate or repair damage; or (iii) to inspect the Units and Exclusive Use Common Areas to ensure compliance with the Governing Documents.

12.2 Notice of Entry. The Mutual must give at least three (3) business days' written notice by personal delivery, or five (5) calendar days' written notice by first class mail or email, to the Resident and a Unit Owner, stating the purpose for and time of the entry. Email notification may be used only if the recipient previously consented to receive such notices and communications from the Mutual by email.

12.3 Avoid Unreasonable Interference. The right of entry must be exercised to avoid unreasonable or unnecessary interference with the possession, use, and enjoyment of the Member or Resident of such Unit.

12.4 Emergency Entry. In an emergency, the Board or its authorized representatives may enter the Unit without permission and is not subject to liability to the Member or Resident for such entry. If exercised in good faith, such entry is deemed to be consented to by all Members and does not constitute trespass or any other wrongful act. If the Mutual must damage or destroy property to gain access to the Unit, the Member will have no right of action against the Mutual or its representatives for such damage or destruction. However, the Mutual must repair any such damage or destruction if the emergency did not originate in the affected Unit. Prior to emergency entry, if feasible, the Board must make a good faith effort to contact a Member owning the Unit.

12.5 Refusal to Allow Entry.

- a. Entry by Court Order. Following any refusal to expressly grant entry permitted in these CC&Rs, the Mutual may file suit and seek a court order to gain entry authorized in these CC&Rs. However, if the Member owning the Unit or a Resident of the Unit has expressly prohibited entry authorized in these CC&Rs, the Mutual's representatives are permitted to gain entry only after filing suit and obtaining a court order.
- b. Entry without Court Order. If the Member owning the Unit or a Resident of the Unit does not expressly prohibit entry authorized in these CC&Rs, but is unavailable or otherwise refuses to expressly grant access, the Mutual, through its representatives, are permitted to enter the Unit, without a court order, in the manner permitted elsewhere in this Article. Such Persons entering with no court order, when acting in good faith, are not liable for trespass or any other unintentional damages resulting from such entry.
- c. Recovery of Attorneys' Fees and Costs in Lawsuit. If the Mutual files a lawsuit to gain entry and prevails, it is entitled to recover from the Member, by judgment, all expenses the Mutual incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith, the cost of repairing damage that was reasonably necessary to gain entry, and reasonable attorneys' fees and costs of suit for enforcement of this provision of the CC&Rs as the court may order.

- d. Expenses Not Recovered as Part of a Lawsuit. If the Mutual gains entry without a court order and/or chooses not to seek recovery of its expenses in a lawsuit, it is permitted to recover all expenses it incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith and the cost of repairing damage that was reasonably necessary to gain entry, but excluding attorneys' fees, by a Reimbursement Special Assessment against the Member, enforceable by all means provided for in these CC&Rs and by law, including lien and foreclosure.

12.6 Damage Repaired by Mutual. Any damage caused by the Mutual to the Common Areas or Unit improvements must be promptly repaired by the Mutual. The Mutual is authorized to recover the cost of any damage caused by others, but repaired by the Mutual, by a Reimbursement Special Assessment (if caused by a Member, a Member's Tenant, family member, invitee or guest), or any other legal means against the responsible parties.

12.7 Power to Vacate Unit. The Mutual is permitted to require Residents to vacate a Unit to allow maintenance, repair or replacement of the Mutual's Common Areas or other areas for which the Mutual is obligated. All costs of temporary relocation during the maintenance, repair or replacement of the areas within the responsibility of the Mutual must be borne by the Member owning the Separate Interest affected, and not the Mutual, as provided for in the Davis-Stirling Act. Such temporary relocation costs include, without limitation, food, lodging, lost rent or other income, and any other associated expenses incurred by the Member. However, it is the Mutual's duty to diligently make such repairs reasonably quickly.

- a. Notice. The Board must give notice of the need to temporarily vacate a Unit to Residents and Members not less than fifteen (15) days prior to the date of the relocation. The notice must state the reason for the temporary relocation, the date and time of the repairs, and the anticipated date and time of completion of repairs. Notice must be either by personal delivery or first-class mail to the address shown on the books of the Mutual.
- b. Duty to Vacate. Members and Residents must cooperate with the Mutual and, if requested by the Mutual, vacate their Units to allow the Mutual to perform its obligations. If not, the Mutual may file a lawsuit to require cooperation and/or for the Unit to be vacated.
- c. Recovery of Attorneys' Fees and Costs in Lawsuit. If the Mutual files a lawsuit to require cooperation and/or require the Unit to be vacated and prevails, it is entitled to recover from the Member, by judgment, all expenses the Mutual incurred because of refusal to cooperate and/or vacate, including, without limitation, reasonable attorneys' fees and costs of suit for enforcement of this provision of the CC&Rs as the court may order.

12.8 Entry by Member. Each Member must permit other Members and their representatives to enter their Unit to perform installations, alterations, or repairs to the mechanical or electrical services to a Unit, if: (i) requests for entry are made in advance; (ii)

entry is made at a time reasonably convenient to the Member whose Unit is being entered; and (iii) the entered Unit is left in substantially the same condition as existed immediately preceding such entry. Any damage to the Unit caused by entry must be repaired by the entering Member. Both the Member allowing entry and the Member gaining entry must hold harmless and defend the Mutual and its Officers, Directors, Committee members, Members, agents, and employees against claims of damage or injury resulting from one Member's entry into another Member's Unit.

ARTICLE 13: ASSESSMENTS

13.1 Purpose of Assessments. The general purpose of Assessments is to provide for the recreation, health, safety, and welfare of the Members, enforce and comply with the Governing Documents, manage the Development, enhance the quality of life in the Mutual, improve, maintain, repair, and replace Common Areas and Exclusive Use Common Areas, provide for the acquisition and maintenance of property, services and facilities devoted to these purposes, and for any action or undertaking on behalf of the Mutual.

13.2 Regular Assessment. The Board must levy Regular Assessments (also known as the "Annual Assessment" or "monthly coupon") in an amount sufficient to provide for the performance by the Board of each and every one of its powers and duties provided, however:

- a. 20% Limitation. Pursuant to the Davis-Stirling Act, the Board is not permitted, without the approval of Members casting a majority of the votes with a Quorum present, to impose a Regular Assessment which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year. Quorum for the purposes of this provision means more than fifty percent (50%) of the Members of the Mutual.
- b. Uniform Rate of Assessment. Regular Assessments must be fixed at a uniform rate for all Units.
- c. Payable Monthly. Regular Assessments are payable by each Member against whom assessed in twelve (12) equal monthly installments on the first day of each calendar month or at such other dates and in such other installments as the Board determines. Assessments for new Members must be prorated in the first month of membership according to the date on which the individual becomes a Member.
- d. Written Notice. Individual notice under Civil Code §4040 of any increase in Regular Assessments must be given to each Member not less than thirty (30) days nor more than sixty (60) days prior to the increased Assessment becoming due.
- e. Modification of Assessment. The Board may modify the Regular Assessments during the course of a fiscal year if necessary to conform to a revised estimate of costs and expenses. However, if the aggregate increase exceeds twenty percent (20%) of the Regular Assessment for the immediately preceding fiscal year, the Board must obtain the approval of Members as provided for in the

Davis-Stirling Act. If an annual Regular Assessment is not published for a new fiscal year, the Regular Assessment for the prior fiscal year will apply and govern each Member's payments until changed by a new Regular Assessment.

13.3 Special Assessment. In addition to the Regular Assessment, the Board may levy a Special Assessment for any purpose necessary for the Mutual to carry out its duties; provided, however:

- a. 5% Limitation. Pursuant to the Davis-Stirling Act, the Board is not permitted, without the approval of Members casting a majority of the votes with Quorum present, to impose a Special Assessment which is more than five percent (5%) of the budgeted gross expenses of the Mutual for such fiscal year. Quorum for purposes of this provision means more than fifty percent (50%) of the Members of the Mutual.
- b. Uniform Rate of Assessment. Special Assessments are fixed at a uniform rate for all Units.
- c. Reimbursement Assessments. Special Assessments are also permitted to be levied against individual Units for reimbursement of expenses incurred by the Mutual arising out of actions or omissions of such Member, Member's Tenant, or their respective family, guests, invitees or pets, as expressly provided elsewhere in these CC&Rs.
- d. Payment Schedule. Special Assessments are payable by each Member against whom assessed either monthly or at such dates and in such installments as the Board determines.
- e. Written Notice. Written notice of Special Assessments must be sent by first-class mail to each Member not less than thirty (30) days nor more than sixty (60) days prior to the Assessment becoming due.

13.4 Emergency Assessment. In emergency situations, the Board may increase Regular Assessments beyond twenty percent (20%) or impose Special Assessments above five percent (5%) only as provided for by law.

13.5 Foundation Assessments. So long as agreeable to the Mutual and the Foundation, the Mutual may provide Owners with a single periodic statement directing the Owners to pay to the Mutual the regular assessment levied by both the Mutual and the Foundation and the Mutual shall then pay to the Foundation each billing period all assessments levied by the Foundation.

13.6 Deposit of Assessments. All sums received by the Mutual must be promptly deposited into accounts clearly designated in the Mutual's name.

- a. Combining. The Mutual must maintain separate accounts for its operating funds and its Reserves, respectively, and no funds from those separate accounts are permitted to be combined at any time.

- b. Interest. No Member has the right to receive interest on any such funds deposited.
- 13.7 Reserves. All Reserves must:
- a. Be Separate. Be received in trust by the Board, set aside and separated from the other monies and not be combined with the Mutual's Operating Account.
 - b. Be Invested. Be managed and invested in a prudent manner designed to achieve the primary objective of preserving principal while realizing a reasonable return and to assure the availability of funds as they are needed based upon the most recent reserve fund study obtained by the Board. In no event may reserve funds be invested in stocks or high-risk options.
 - c. Require Two Signatures. Be withdrawn from the Reserve account only upon approval by the Board and the signature of two (2) Directors.
 - d. Not Be Reimbursed. Not be reimbursed to Members. All contributions to the Reserves, as well as interest earned, are for the benefit of the Mutual and not to the benefit of any individual Member. As such, contributions and interest are not refundable to Members when they cease to be Members of the Mutual.

ARTICLE 14: ENFORCEMENT OF ASSESSMENTS

14.1 Liability for Assessments. Assessments, together with charges, interest, costs, and attorneys' fees (regardless of whether legal proceedings are instituted), are a debt of each Owner of a Separate Interest at the time the Assessment or other sums are levied. Co-Owners and/or Members owning a full or partial interest in a Unit are jointly and severally liable for the entire amount of all Assessments, late charges, interest, reasonable costs of collection, reasonable attorneys' fees, and monetary penalties.

14.2 Enforcement Rights. In addition to any other rights provided for by law or described in these CC&Rs, the Board has the right to collect delinquent Assessments as follows:

- a. Late Fees and Interest. Unpaid Assessments are deemed delinquent fifteen (15) days after they are due and are subject to a late charge of the greater of either ten percent (10%) or ten dollars (\$10.00), which may not be imposed more than once on any delinquent payment, and interest at the rate of twelve percent (12%) per annum, which may commence thirty (30) days after the Assessment becomes due.
- b. File Suit. The Mutual is authorized to commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien and initiate foreclosure against the Member's Unit for the delinquent Assessment. In any action to collect delinquent Assessments, late charges and/or interest, the prevailing party is entitled to costs and reasonable attorneys' fees. All amounts included in any judgment may become the subject of a judgment lien in any county in California in which an abstract of judgment is recorded.

- c. Lien and Foreclose. In accordance with the Davis-Stirling Act, a delinquent Assessment or installment, together with any late charges, interest, costs, attorneys' fees, and penalties, will become a lien on the Unit upon the recordation of a "Notice of Delinquent Assessment" in the Office of the County Recorder. The Board is permitted to enforce any Assessment lien against a Unit by filing an action for judicial foreclosure or by nonjudicial foreclosure in the manner provided for in the Davis-Stirling Act. The Mutual, through its Board, is authorized to bid on the Unit at the sale and may hold, lease, mortgage, and convey the acquired Unit as permitted by law.
- d. Continuing Lien. Any demand or claim of lien or lien on account of prior delinquencies is deemed to include subsequent delinquencies and amounts due on account thereof. It is the intent of these CC&Rs that any lien recorded against a Separate Interest by the Mutual to secure payment of delinquent Assessments and/or other amounts be a continuing lien to include any and all subsequent Assessments and other amounts as permitted in the Davis-Stirling Act, to the full extent allowed in *Bear Creek Master Ass'n v. Edwards*, (2005) 130 Cal. App. 4th 1470.
- e. Additional Remedies. The remedies provided in this Section are in addition to, not in substitution for, any other rights and remedies which the Mutual may have.

14.3 No Offsets. All Assessments are payable in the amount specified by the Assessment and no offsets against such amount are permitted for any reason, including, without limitation: (i) a claim that the Mutual is not properly exercising its duties and powers, as provided in these CC&Rs; (ii) a Member has not made or elects not to make use of the Common Area; (iii) any maintenance, repairs or replacements for which the Mutual is responsible have not been performed or have not been performed to a Member's satisfaction.

14.4 No Exemption by Waiver of Use. Members are not permitted to exempt themselves from liability for Assessments nor release their Units from liens and charges by waiver of their use and enjoyment of the Common Areas, by abandonment of their Units, or through non-use of Common Areas or membership privileges.

14.5 Attorneys' Fees. Any reasonable attorneys' fees and costs incurred by the Mutual in the collection of Assessments, late fees, and interest against a Member may become a Reimbursement Special Assessment against that Member, which may be collected in any manner provided for by these CC&Rs or by law.

14.6 Non -Waiver of Assessments. If the Board fails to approve a Budget or fix the Assessments for the current year, the Budget and Assessments from the preceding year continue until a new Budget is approved and new Assessments are fixed.

ARTICLE 15: INSURANCE

15.1 Liability and Fidelity Insurance. The Mutual shall obtain and maintain the following liability policies.

- a. Commercial General Liability Policy. A Commercial General Liability policy insuring the Mutual, any manager, the Mutual's directors and officers, and the Members against liability arising from any bodily injury or property damage as a result of an accident or occurrence within the Common Area. Subject to the terms and conditions of the policy, the policy also shall cover bodily injury or property damage from an accident or occurrence within any Unit or Exclusive Use Common Area related to any maintenance or repair work required to be performed by the Mutual pursuant to the Bylaws and/or Rules, including, but not limited to work performed in the Common Area. The policy shall include, if obtainable, cross liability or severability of interest coverage. The limits of such insurance (including the commercial general liability and any excess liability coverage) shall not be less than the general liability insurance requirements set forth in Civil Code section 5805 covering all claims for bodily injury and property damage arising out of a single occurrence. The coverage may be a combination of primary and excess policies. The insurance shall be provided with coverage terms provided by Insurance Services Offices (ISO) form CG 0001 or equivalent or better coverage. Such insurance shall include coverage against liability for owned, on-owned and hired automobiles and other liability or risk customarily covered with respect to projects similar in construction, location and use. The policy shall be primary and noncontributing with any other liability policy covering the same liability.
- b. Directors and Officers Liability Policy. A directors and Officers Liability policy containing such terms and conditions as are normally and customarily carried for directors and officers of a common interest development and in sufficient amounts to satisfy the insurance requirements of Civil Code section 5800.
- c. Crime Insurance. A blanket Commercial Crime Insurance Policy covering the Mutual, any organization or person who either handles or administers or is responsible for Mutual funds, whether or not any person receives compensation for services. The policy amounts shall not be less than the sum of three months of Annual and Special Assessments on all Memberships subject to Assessments.

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

- a. Property Covered. The Mutual's policy shall cover the following real and personal property:
 - i. Common Area. All Common Area improvements, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building; windows; fences;

monuments; lighting fixtures situated outside the Residences; exterior signs; and personal property owned or maintained by the Mutual; but excluding land; excavations; and other items typically excluded from property insurance coverage.

- ii. Units. Permanently affixed improvements situated within the Unit, including interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, carpets and hardwood floors); utility fixtures (including gas, electrical and plumbing); cabinets; built-in appliances; heating and air-conditioning systems; water heaters and any replacements thereto; but excluding any personal property located in the Unit. If the Member renovates, upgrades or replaces any permanently affixed improvement within the Unit or adds new improvements to the Unit (collectively the “Alterations”) and the replacement cost of the Alterations exceeds the cost of the improvements prior to the Alterations, the Member shall be responsible for procuring and maintaining insurance to cover the excess unless the Member has obtained written approval from the Mutual to make the Alterations and, to the extent required, approval from governmental authorities.
 - iii. Landscaping. Lawn, trees, shrubs and plants located in the Common Area.
- b. Covered Cause of Loss. The Mutual’s policy shall provide coverage against losses caused by fire and risks of direct physical loss, as insured under the ISO “Causes of Loss – Special Form (CP 1030)” or its equivalent or better coverage. Such policy shall include coverage for loss resulting from the enforcement of any ordinance or law regulating the construction, use or repair of any property, or requiring the tearing down of any property, if caused by a peril insured by such policy. Equipment Breakdown Insurance shall also be maintained covering boilers and related equipment, heating, air-conditioning, electrical and mechanical equipment that is used in the generation, transmission or utilization of energy.
- c. Coverage Levels. The amount of such insurance must be the best and highest amount available, taking into consideration availability and reasonable cost. If coverage for one hundred percent (100%) of the aggregate full insurable value of the insured property is not available through one or more carriers, the Association must obtain coverage for the highest percentage of the property available to the extent such percentage is also economically feasible. When determining economic feasibility for a given amount of coverage, the Board may consider:
- i. The risk analysis/risk assessment obtained from a qualified risk manager or insurance broker who is using industry standards to evaluate cost and availability of insurance products for similarly situated communities;

- ii. The market availability of coverage;
 - iii. The possibility of various possible maximum loss scenarios laid out by the qualified risk manager or insurance broker or third party consultant used by GRF;
 - iv. The overall cost effectiveness of available coverage;
 - v. The difference in cost between different percentages of coverage;
 - vi. The relative risks of experiencing different percentages of loss, such as the risk of a 50% loss vs. a 100% loss;
 - vii. Actual or anticipated increases in other required Association expenses; and
 - viii. Such other financial and economic factors that a reasonable Board would consider under the circumstances.
- d. Primary. The Mutual's policy shall be primary and noncontributing with any other insurance policy covering the same loss; provided, however, that where a Member's individual insurance policy (discussed below) provides overlapping coverage, the Member's individual insurance policy shall be the primary coverage and the Mutual's policy shall be excess/supplemental/secondary coverage as the case may be.
- e. Endorsements. The Mutual's policy may contain such endorsements as the Board may select after consultation with a qualified insurance consultant.
- f. Waiver of Subrogation. The Mutual waives all subrogation rights against any Member or occupant and their family members and invitees. The policy shall include an acknowledgment of the Mutual's right to waive all subrogation rights against the Member.
- g. Deductible. Except as otherwise provided by separate agreement, when a claim is made on the Mutual's property insurance policy, the Member is responsible for payment of the deductible on the Mutual's policy in circumstances: (i) where damage to Common Area is caused by the fault of the Member, contract purchasers, subtenants, Residents of the unit, and agents, invitees, family members, guests and pets of any of the foregoing; or (ii) where damage to Common Area and/or Unit improvements is caused by the failure of some portion of the Unit or Common Area which the Member is responsible for maintaining. In cases where fault cannot be determined, the Mutual shall pay the deductible.

The Mutual may enter into a deductible sharing agreement with other Rossmoor mutuals. In this event, to the extent there is any conflict between the payment

of deductibles as set forth in this Section and the agreement, the agreement shall control.

15.3 Insurance Rating and Cancellation. The insurance company providing the Mutual's insurance under Sections 15.1 and 15.2, shall have an A.M. Best rating of not less than A:VII if licensed to do business in the State of California and a rating of not less than A:X if approved but not licensed to do business in the State of California, provided that if the Board determines that insurance from insurance companies with the required ratings is not available at commercially reasonable rates, the Board may reduce the rating requirements after consultation with a qualified insurance consultant. If the A.M. Best ratings are no longer available, the insurance ratings shall be based on equivalent ratings issued by an independent insurance rating company used by financial institutions for insurance rating purposes.

15.4 Board's Insurance Authority. The Board has the authority on behalf of the Mutual and each of its Members to participate with the Foundation (or any successor or assign thereto) and other Rossmoor mutuals in a group policy or policies procured and maintained by the Foundation as long as the group policy or policies provide equivalent or better coverage than the applicable requirements described in Section 15.1 and 15.2, subject to the Board's right to deviate from the requirement as described herein. The Board shall have the power and right to deviate from the insurance requirements contained in this Article 15 in any manner that the Board, in its discretion, considers to be in the best interests of the Mutual, provided that the Board shall maintain the minimum insurance requirements set forth in Civil Code sections 5800 and 5805 and as required in Section 15.3. If the Board elects to materially reduce the coverage from the coverage required in this Article 15, the Board shall, as soon as reasonably practicable, notify the Members of the reduction in coverage in the manner prescribed by law.

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

Each Member irrevocably appoints the Mutual, as that Member's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Mutual and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Member had personally taken the action.

15.5 Members' Individual Insurance Recommendations. Each Member, at that Member's sole cost and expense, should obtain and maintain a "special causes of loss" policy in an amount equal to or greater than the total replacement value of the Unit interior to the extent not covered by the Mutual's blanket property policy (described above), including, if applicable, upgrades to the Unit as originally constructed and the personal property contained therein (commonly known as an "HO-6" policy). The policy should provide liability coverage in such amounts and for such acts or omissions as are normally and customarily included in homeowners property insurance coverage of the types required herein. Each Member should also consider maintaining a policy which includes the following coverage: dwelling, contents, loss assessment, and loss of use. However, no Member shall be entitled to maintain insurance

coverage in a manner so as to decrease the amount which the Mutual, on behalf of all Members and their Mortgagees, may realize under any insurance policy which the Mutual may have in effect at any time.

The Mutual's insurance policies will not provide coverage for: (i) losses to the Member's personal property; (ii) liability from accidents or occurrences within the Member's Unit; or (iii) liability from accidents or occurrences within Rossmoor for which the Member may be held responsible and which may not be covered under the Mutual's Commercial General Liability policy. Each Member should seek the advice of a qualified insurance consultant regarding the Member's property and liability insurance obligations under this Section and other applicable coverage available to Members.

Nothing herein imposes any duty on the Mutual, its directors, officers or agents (including the Mutual's managing agent) to confirm or otherwise verify that the Members are carrying the insurance required in this Section.

No Member shall separately insure any property covered by the Mutual's property insurance policy described in Section 15.2 unless the Member's individual insurance policy permits the application of any overlapping coverage under Member's policy as primary without a reduction in benefits from the coverage under the Mutual's policy. If any Member violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Mutual, the Member will be liable to the Mutual to the extent of the diminution. The Mutual may, subject to the Mutual's compliance with the notice and hearing requirements set forth in the Bylaws, levy a Reimbursement Assessment against the Member and said Member's Membership to collect the amount of the diminution.

15.6 Insurance by Tenant. Each Owner who rents or leases out their Unit is recommended to (i) require the tenant to obtain and maintain a "renter's policy" (also known as an "HO-4" policy and (ii) provide to the Board a certificate from the tenant's insurer certifying that the required insurance under this Section 15.6 has been procured and is in full force and effect; provided, however, that neither the Mutual nor the Board shall be responsible for procuring insurance on a tenant's behalf or verifying that tenants are maintaining the required insurance to cover such tenant's property and provide liability coverage.

ARTICLE 16: PROTECTION OF LENDERS

16.1 Furnishing of Information. Each Lender is, upon written request, entitled to inspect the books and records of the Mutual during normal business hours and receive written notice of Board and membership meetings and designate a representative to attend such meetings.

16.2 No Priority Over Rights of First Mortgagees. Nothing in these CC&Rs gives a Member or any other party priority over any rights of first mortgagees of Units, pursuant to their mortgages, in the case of a distribution to Members of insurance proceeds or condemnation awards for losses to or taking of Units and/or the Common Area. Additionally, if any Unit or any portion of a Unit is made the subject matter of any condemnation or eminent domain proceeding,

no provision herein entitles the Member, or any other party, to priority over a first mortgagee of a Unit, concerning any distribution of the proceeds of any award or settlement.

16.3 Relationship with Assessment Liens. Any lien that the Mutual may have on any Unit for the payment of Assessments subordinates to the lien or equivalent security interest of any Lender with a first trust deed or mortgage on the Unit, made in good faith and for value, and no such lien impairs the obligation or the priority of such trust deed or mortgage, unless the Lender expressly subordinates its interest, in writing, to such lien.

16.4 Foreclosure. Any holder of a first mortgage who takes title to a Unit, pursuant to the remedies provided in the mortgage, through foreclosure of the mortgage takes the property free of any claim for unpaid Assessments or charges against the mortgaged Unit which accrued prior to the time such Person takes title to the Unit.

16.5 Priority of Mortgage Lien. No breach of any provision of these CC&Rs nor the enforcement of any lien created herein affects, impairs, defeats, or invalidates the lien of any mortgage or deed of trust made in good faith and for value, but these CC&Rs are binding upon any Member whose title is derived through foreclosure, trustee sale, or otherwise.

16.6 Payment of Taxes and Charges. Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area. Lenders making such payments shall be owed immediate reimbursement from the Mutual.

ARTICLE 17: LIMITATIONS OF LIABILITY

17.1 Standard for Liability. Officers, Directors, Committee members, employees, or agents are not responsible to the Mutual, or any Member, Member's Tenant, or their respective family, guests, or invitees for any loss or damage to the Mutual, or any Person or property suffered by reason of water, fire, smoke, explosion, electricity, dust, sand, insect or rodent infestation, or any other source, unless there is clear and convincing evidence the damage or loss was caused by the willful, intentional or bad faith misconduct of the Mutual's Officers, Directors, Committee members, employees, or agents, based upon the information such individual possessed at the time of the purported act or omission. The Mutual's Officers, Directors, Committee members, employees and agents cannot be held strictly liable for their acts or omissions.

17.2 Limited Personal Liability. No Officer, Director, Committee member, or employee of the Mutual is personally liable for any loss, injury, or damage to Persons or property for any act or omission, if the act or omission was performed in good faith, within the scope of the Person's duties for the Mutual, was not self-dealing, and did not constitute willful or intentional misconduct.

17.3 Mutual Not a Security Provider. The Mutual is authorized to provide security measures in the Development. However, the Mutual is not a provider of security and has no duty to provide any security in the Development. The obligation to provide security lies with each Member individually. The Mutual cannot be held liable for any harm, loss or damage to Persons

or property by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. This includes, but is not limited to, any harm, loss or damage from theft of or damage to any article or thing placed or stored in or on any portion of the Common Area.

17.4 Duty to Defend. The Mutual must indemnify and defend and must advance reasonable attorneys' fees and costs to its Officers, Directors, Committee members, and employees for all expenses and liabilities reasonably incurred by such Person(s) regarding any proceeding (including, but not limited to, alternative dispute resolution proceedings) to which they are a party by reason of having been an Officer, Director, Committee member, or employee of the Mutual. However, the Mutual may seek recovery of its attorneys' fees and costs from, and is not liable for, any judgments or other liabilities for the acts or omissions of, any Persons adjudged to have acted in bad faith or in gross negligence in the performance of their duties, to the extent permitted by law.

17.5 Duty to Protect. The Mutual must protect its Officers, Directors, Committee members, and employees from unlawful harassment in the workplace as such phrase is defined in the law. However, the Mutual has no duty to prosecute or fund the prosecution of any claim or cause of action which an Officer, Director, Committee member, or employees of the Mutual asserts against another Officer, Director, Committee member or employee of the Mutual, or against a Member, which is (1) not based on conduct of the accused performed in the course and scope of their duties (2) founded on personal issues or disputes between the parties, (3) for personal injuries or emotional distress, or (4) for defamation.

17.6 Personal Injury or Property Damage Sustained Within a Unit. This Section applies if any Person sustains personal injury or property damage within a Unit or on its attached Balcony, patio or deck and the injury or damage results in a claim against the Mutual or any of its Officers, Directors, Committee members, Members, agents, or employees. The Owner of the Unit, patio, or Balcony where the injury or damage occurred must: (i) fully indemnify and hold harmless the Mutual, Officer, Director, Committee member, Member, agent, or employee against whom such claim or suit is brought; and (ii) defend, at their own cost and expense, any resulting litigation against the Mutual, Officer, Director, Committee member, Member, agent, or employee. However, there is no obligation to hold harmless, defend or indemnify any party whose gross negligence or willful misconduct was the cause of the injury or damage.

17.7 Actions Against Directors. Members are not permitted to and waive all rights to file an action or state any cause of action in any pleading against a Director or Officer of the Mutual, acting within the scope of that Person's duties as a Director or Officer unless the court first determines that the Member seeking to file the pleading has established evidence that substantiates the claim.

ARTICLE 18: DAMAGE/DESTRUCTION TO IMPROVEMENTS

18.1 Common Area Damage. All provisions of this Article 18 apply only when the Common Area has been partially or totally destroyed by fire, earthquake, groundwater flooding or other similar casualties. The provisions do not apply to (1) any damage resulting from any plumbing failure originating in a single Unit and/or (2) any damage resulting from any casualty

or occurrence that affected only a single Unit. The provisions of this Article are also subject to any prohibitions against partitioning the Common Area that might apply .

- a. Cost of Reconstruction. As soon as practical, the Mutual shall rebuild the damaged or destroyed portions of the Common Area to substantially the same condition as they existed prior to such damage.
- b. Automatic Reconstruction. If the cost to reconstruct the Common Areas, minus the value of any insurance proceeds due the Mutual, is less than or equal to three times the amount of the total annual operating Budget of the Mutual for the current fiscal year, the Board, without a vote of the membership, shall cause the Common Area to be reconstructed to substantially the same condition as existed prior to such damage (subject to any increased building standards then in effect). Such reconstruction must be completed as promptly as practical. Notwithstanding any other provision, the Board is authorized, without a vote of the membership, to levy an Emergency Special Assessment against the membership to provide the funds necessary for such reconstruction and/or for repayment of any monies borrowed by the Mutual for such reconstruction.
- c. Membership Approval. If the Board determines that the cost to reconstruct the Common Areas, excluding the deductible and the value of any insurance proceeds due the Mutual, is an amount greater than three times the total annual operating Budget of the Mutual for the current fiscal year, then the Common Areas must be reconstructed unless sixty-seven percent (67%) of the membership, by ballot or at a special meeting called for such purpose, vote not to reconstruct the damaged or destroyed Common Areas.
- d. Decision Not to Rebuild. If the membership votes not to rebuild the Common Areas, the Mutual or any Member is authorized to file a partition action under Civil Code §4610 seeking sale of the entire condominium project.
- e. Distribution of Insurance Proceeds.
 - i. No Partition Action Promptly Filed. If a partition action is not filed within six (6) months of the partial or total destruction, the Board must distribute the insurance proceeds available for reconstruction, together with any other sums otherwise available to the Mutual for such purpose, to the Owners, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessarily incurred as a result of the damage or destruction, proportionately according to an appraised fair market value of the Condominiums (as of a date immediately prior to destruction or condemnation). Such payment is subject to rights of Mortgagees holding Mortgages encumbering Units and all unpaid Assessments, together with any interest charges. Appraisers hired by the Board to appraise the Condominiums will be paid by the Mutual.

- ii. Partition Action Promptly Filed. If a partition action is filed within six (6) months of the partial or total destruction, the Mutual must interplead the insurance proceeds available for reconstruction, together with any other sums otherwise available to the Mutual for such purpose, to the Owners, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessarily incurred as a result of the damage or destruction into the partition action.

18.2 Duties of Board During Reconstruction. If reconstruction is undertaken, the Board must: (i) enter into a written contract with a contractor who is licensed and insured for such repair, reconstruction, and restoration; (ii) disburse insurance proceeds available for the work, along with funds collected by reason of Assessments, in appropriate progress payments; and (iii) take all steps necessary to ensure the commencement and completion of such repair, reconstruction, and restoration in a lawful, workmanlike manner at the earliest possible date.

18.3 Right of Entry to Assess Damage and Make Repairs. Representatives of the Mutual, contractors, engineers, workmen, or any other Persons designated by the Board have the right and authority to enter any Unit, Common Area, or Exclusive Use Common Area after such casualty to determine the extent of damage and to make repairs, as provided for under the "Right of Entry" provisions contained in these CC&Rs.

18.4 Power to Vacate Unit. If necessary, the Board has the authority to vacate a Unit to make repairs, as provided for under the "Right of Entry" provisions contained in these CC&Rs.

18.5 Labor and Materials. In determining whether the plans for a reconstructed Building are in substantial conformance with the Condominium Plan, the Board must take into consideration the availability and expense of the labor and materials in the original construction of the Building. If such labor or material is not available or is prohibitively expensive at the time of reconstruction, the Board is permitted to substitute other labor or materials, as it deems proper.

18.6 Interior Unit Damage. Repair, restoration and rebuilding of any damage caused by fire, earthquake, or other casualty to: (i) the interior of any individual Unit; (ii) personal property, furniture, furnishings, and decorations contained within a Unit; or (iii) any Improvements which were added to the Unit by any present or prior Unit Resident or Member not covered by the Mutual's insurance must be made by and at the individual expense of the current Unit Owner. The Unit Owner must receive written architectural approval from the Mutual of the plans to repair, restore and reconstruct before beginning the work and comply and conform to any requirements of the Mutual's Governing Documents and all state and local building ordinances, codes, and statutes. The repairs, restoration and reconstruction must be completed as promptly as practical and in a lawful and workmanlike manner. If the work is of a nature that would normally require approval by the Mutual, the Member must seek such approval, as provided for in these CC&Rs.

18.7 Special Assessment for Reconstruction. If the proceeds of insurance obtained by the Mutual are paid to any Mortgagee of a Unit and, by reason of such payment, the insurance proceeds are not made available to the Mutual as trustee, or otherwise, to effect any repair, reconstruction, or restoration of any damage and/or destruction to all or any portion of the

Development as provided in these CC&Rs, the amount of such proceeds not made available must be assessed and charged to and against the Member or Members and their Unit as an Emergency Special Assessment. The Emergency Special Assessment must be made by written notification from the Board to the Member or Members against whom made.

18.8 Encroachment. If a Building is partially or totally destroyed and then rebuilt, Members agree that minor encroachments of the Common Area on Units or of Units on the Common Area or on other Units are permitted and that valid easements for the encroachments exist. Such encroachments are not considered to be encumbrances either on the Units or the Common Area.

ARTICLE 19: CONDEMNATION

19.1 Notice. Promptly upon learning of any potential condemnation or sale by eminent domain, the Board must notify all Members and First Mortgagees who have filed a written request for notice.

19.2 Payment for Common Area. When an action in eminent domain is brought to condemn all or any portion of the Common Areas, the Mutual must represent the Members in all proceedings, negotiations, or settlements. Awards for the acquisition of Common Area must be paid to the Board, as trustee, for deposit into the Mutual's Reserves unless a majority of the total voting power of the Mutual elects to distribute the award among the Members in accordance with their Percentage Interest.

19.3 Payment for Unit. When an action in eminent domain is brought to condemn all or any portion of one or more Units, the award made for such taking must be payable to the respective Owners of the Units, subject to: (i) the rights of Mortgagees holding Mortgages covering such Units; and (ii) all unpaid Assessments of each Member, taken together with interest and other pending charges. The Board of Directors has no responsibility for the restoration of a Member's personal or real property taken as a result of condemnation.

19.4 Revision of Documents. When any part of the Development is condemned, the Board must, as soon as practical, prepare, file, and/or record a revised subdivision map, Condominium Plan, or other documents, reports, schedules, or exhibits necessary to show the changed or altered status of the Development.

19.5 Status of Membership. If a Unit is taken in condemnation, the Unit ceases to be part of the Development, the Member ceases to be a Member of the Mutual, and the Percentage Interest in Common Area appurtenant to that Unit automatically become vested in the remaining Members, in proportion to their respective Percentage Interests in the Common Area.

ARTICLE 20: MISCELLANEOUS

20.1 Amendment. Amendment or restatement of these CC&Rs is permitted by obtaining the affirmative vote of Members comprising more than fifty percent (50%) of the Voting Power of the Mutual or as provided for by law, provided that the percentage of the Voting Power necessary to amend a specific provision is not less than the percentage of affirmative votes prescribed for action to be taken under that provision. Any amendment enacted

in compliance with this provision becomes effective when recorded with the Offices of all County Recorders where the Development is situated.

20.2 Lender Approval. If a First Mortgagee is entitled, by the terms of these CC&Rs, to consent to, approve, disapprove, or object to a proposed amendment to or restatement of the CC&Rs, but fails to return a ballot, or other form providing written disapproval or objection within thirty (30) days of receipt, such First Mortgagee is deemed to have consented to and approved the proposed amendment or restatement, provided the ballot, or other form permitting written disapproval or objection, was delivered by certified or registered mail with return receipt requested and the delivery signed for by a representative of the First Mortgagee.

20.3 Amendment to Conform to Statute. If a provision in these CC&Rs contradicts current law, according to a written opinion of the Mutual's legal counsel, on the unanimous approval of the Board of Directors and without approval of the Members, the Board is authorized to amend that provision, but only to the extent necessary to render the provision compliant with applicable law. A resolution explaining the need for the change must be adopted by the Board in an open meeting of the Board and recorded in the minutes.

20.4 Term of CC&Rs. These CC&Rs continue in full force and effect for a term of sixty (60) years from the date of their recordation (the Renewal Date), after which time they are automatically extended for successive periods of twenty (20) years. The provisions of this Article are also subject to any prohibitions against partitioning the Common Area that might apply. These CC&Rs may be terminated if, within six (6) months prior to the Renewal Date of any twenty-year extension period, (i) at least seventy-five percent (75%) of the Members and seventy-five percent (75%) of the First Mortgagees approve by secret ballot circulated by the Mutual via its Board of Directors to terminate these CC&Rs, and (ii) an appropriate governmental agency has agreed in writing to assume the Mutual's Common Area maintenance, repair, and replacement obligations, and (iii) certification of the membership's and First Mortgagee's approval to terminate and the agency's agreement to assume maintenance duties are recorded with the Office of County Recorder in which the Development is situated, and (iv) the Mutual's contractual and other legal obligations are wound up, and (v) all required corporate filings, tax returns, and notices are filed with appropriate agencies to effectuate dissolution of the Mutual/corporation, and (vi) insurance tail coverage is purchased to cover any potential liability the Mutual may have until all applicable statutes of limitations have run their course.

20.5 Attorneys' Fees. In a lawsuit by the Mutual seeking the enforcement of the Governing Documents against a Member or to determine the rights or duties of the Member under the Governing Documents, the prevailing party may be awarded reasonable attorneys' fees and costs as permitted by law.

20.6 Notices. Any communication or notice of any kind permitted or required to be delivered pursuant to the Mutual's Governing Documents, or pursuant to the Davis-Stirling Act, must be in writing. Such delivery must be made as follows:

- a. To the Mutual:
 - i. Manner of Delivery. By electronic delivery (email, facsimile, or other

electronic means), by personal delivery (for which a receipt will be provided), or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center). This provision consents to allow personal delivery and electronic delivery to the Mutual. However, the Mutual is permitted to withdraw such consent, in writing, as to any Member whose electronic communications or personal visits are abusive or harassing, and limit communications and notices from such Member to mail only.

- ii. Recipient of Delivery. The Person designated in the Mutual's annual policy statement to receive documents on behalf of the Mutual. If no person has been designated to receive documents, the document must be delivered to the President or Secretary of the Mutual.

b. To the Members:

- i. Manner of Delivery. For communications and notices subject to the Davis-Stirling Act, in the manner required therein, including individual notice or delivery, general notice or delivery, electronic delivery (with consent) or otherwise. For other communications and notices not subject to the Davis-Stirling Act, by electronic delivery (email, facsimile, or other electronic means), by personal delivery, or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center).
- ii. Location of Delivery by Mail or Email. Delivery must be made according to the Member's preferred delivery method, or if no method is selected, as otherwise determined by Civil Code §4041, and as further provided for in Civil Code §4040 (individual delivery) and Civil Code §4045 (general delivery).

c. When Notice Deemed Delivered.

- i. By Mail. If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.
- ii. By Electronic Means. If a document is delivered by electronic means, delivery is complete at the time of transmission.

20.7 Headings. The headings contained in these CC&Rs are for convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction of any term or provision of these CC&Rs.

20.8 Liberal Construction. The provisions of the Governing Documents must be liberally construed to effectuate their purpose of creating a uniform plan for the use, operation and maintenance of the Development.

20.9 Severability. The provisions of these CC&Rs and any other Governing Document are deemed independent and severable and the invalidity, partial invalidity, or unenforceability of any one provision has no effect on the validity or enforceability of any other provision.

20.10 No Public Rights. Nothing contained in these CC&Rs is a gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

20.11 Successor Mutual. If the Mutual, as a corporate entity, is dissolved, a nonprofit, unincorporated association, without further action, automatically succeeds to all the rights and duties of the corporation. The affairs of the unincorporated association will continue to be governed by these CC&Rs, the Bylaws, Architectural Standards, and the Rules and Regulations, as well as any applicable law.

20.12 Conflicting Provisions. When a conflict exists between these CC&Rs and the Articles or the Bylaws, these CC&Rs control. When a conflict exists between the Articles and the Bylaws, the Articles control.

20.13 Annexation Agreement with Project Nineteen. The Annexation Agreement between Fourth Walnut Creek Mutual and Project Nineteen is attached to these CC&Rs as Exhibit E and incorporated into these CC&Rs by reference.

CERTIFICATION

WE CERTIFY this _____ day of _____, 20__ that this Second Restated Declaration of Covenants, Conditions and Restrictions has been duly approved and adopted by the affirmative vote of at least a majority of the total voting power of Fourth Walnut Creek Mutual.

FOURTH WALNUT CREEK MUTUAL

President

Secretary

DRAFT

REPLACE THIS PAGE WITH NOTARY ACKNOWLEDGEMENT

DRAFT

EXHIBIT "A" ORIGINAL DECLARATIONS

DRAFT

EXHIBIT "B" LEGAL DESCRIPTION

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EXHIBIT “C” AGREEMENT OF MERGER

DRAFT

**EXHIBIT “D” AGREEMENT ESTABLISHING COVENANTS CONDITIONS AND
RESTRICTIONS**

DRAFT

EXHIBIT “E” ANNEXATION AGREEMENT WITH PROJECT NINETEEN

DRAFT