CC&Rs (Required Civil Code Sec. 4525)
Primavera Homeowners Association

RECEIVED & READ

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SIGNATURE DATE

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SIGNATURE DATE

NOTICE:

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, 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. 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.

RESTATED DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

PRIMAVERA HOMEOWNERS ASSOCIATION

The Declaration, executed by Valley Title Company, a corporation ("Declarant"), entitled "Declaration of Covenants, Conditions and Restrictions" and recorded October 6, 1971 in Volume 9534, Pages 70, *et seq.*, File No. 4108229, of the Official Records of Santa Clara County, California (the "Original Declaration"); as amended by that certain Amendment to Declaration of Covenants, Conditions and Restrictions recorded December 8, 1971 in Book 9619, Page 576, File No. 4151653, and as further amended by that certain Amendment to Declaration of Covenants, Conditions and Restrictions recorded January 27, 1977 in Book C562, Page 485, File No. 5535308, which Declaration affects all of the Properties described and commonly known as Primavera is hereby amended and restated in its entirety to read as follows:

RECITALS:

1. The Properties are a common interest development consisting of a planned development within the meaning of California Civil Code Section 1351(k).

2. Declarant was the owner of a fee interest in certain real property in the County of Santa Clara, State of California, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Properties"). Declarant consented to the creation and imposition of the plan of beneficial restrictions contemplated herein.

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

4. It was the further intention of the Declarant to sell and convey to the Owners residential Lots improved by Residence structures originally constructed by Declarant, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in the Original Declaration which were in furtherance of a general plan for the subdivision, development, sale and use of the Properties as a "planned development" as that term is defined in California Civil Code Section 1351(k). Further, it was the intention of Declarant that the Common Facilities within the Properties be owned and maintained by the Association, and reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, guests and invitees, all subject to the terms and conditions of this Declaration, the Articles and the Bylaws.

5. On the date specified in the Officers' Certification of Amendment attached hereto, seventy-five percent (75%) of the Lot Owners of Primavera Homeowners Association (the successors in interest to the Declarant) voted by written ballot to amend and restate the Original Declaration, all in accordance with the procedures for amendment set forth in Article XIII, Section 3 of the Original Declaration. As so amended and restated, these easements, covenants, restrictions, and conditions shall run with the Properties and shall be binding on all parties having or acquiring any right, title or interest in the Properties or any portion thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

Definitions

Section 1.01. "Architectural Standards" shall mean written specifications, details, plans and/or drawings adopted by the Board pursuant to Article VIII, Section 8.01 of this Declaration.

Section 1.02. "Articles" shall mean the Articles of Incorporation of Primavera Homeowners Association which are filed in the Office of the Secretary of State of the State of California.

Section 1.03. "Assessment" means an assessment made or assessed against an Owner and the Owner's Lot in accordance with the provisions of Article IV of this Declaration.

Section 1.04. "Association" shall mean and refer to Primavera Homeowners Association, a California non-profit mutual benefit corporation, its successors and assigns.

Section 1.05. "Association Management Documents" means this Declaration, the Articles of Incorporation, Bylaws, Association Rules and Architectural Standards.

Section 1.06. "Association Manager" shall mean the person, persons or firm retained by the Association under contract to perform administrative, financial, managerial and/or other services for the Association.

Section 1.07. "Association Rules" shall mean the rules adopted by the Board of Directors of the Association, as the same may be in effect from time to time pursuant to Article III, Section 3.08 of this Declaration.

Section 1.08. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

Section 1.09. "Bylaws" shall mean the Bylaws of the Association, as such Bylaws may, from time to time, be amended.

Section 1.10. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Members and the Tenants of non-resident Members. The Common Area owned by the Association is described as follows: Lot A as shown on the Map of Tract No. 4971 and Lot 20 as shown on the Map of Tract No. 5352.

Section 1.11. "Common Expense" means any use of Common Funds authorized by Article IV and/or described in Exhibit "B" attached hereto and includes (a) all expenses or charges for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Facilities as incurred or as may be estimated from time to time by the Association and/or its Board of Directors, (b) any amounts reasonably necessary for reserves for maintenance and for nonpayment of any assessments, (c) the costs and expenses of the Association in the performance of its functions as provided for in its Articles of Incorporation, the Bylaws, or this Declaration, and (d) an adequate reserve fund for replacement of Common Facilities, which shall be established by the Association and funded by Regular Assessments and Special Assessments, when required.

Section 1.12. "Common Facilities" means the swimming pool, pool restrooms, playground, and the trees, hedges, plantings, lawns, shrubs, landscaping,

fences, utilities, berms, pipes, lines, lighting fixtures, buildings, carports, structures, private drives and other facilities constructed or installed, or to be constructed or installed, or currently located on the Common Area and owned by the Association.

Section 1.13. "Common Funds" means all funds collected or received by the Association (a) for use in the maintenance, management, administration, insurance, operation, replacement, repair, addition to, alteration or reconstruction of, all or any portion of the Common Area and Common Facilities and (b) for use in discharging any and all of its functions as provided for in its Articles of Incorporation, the Bylaws and this Declaration.

Section 1.14. "County" means the County of Santa Clara, State of California.

Section 1.15. "Declarant" shall mean and refer to the project developer of the Properties, namely, Valley Title Company, a corporation, its successors and assigns.

Section 1.16. "Declaration" shall mean this Restated Declaration of Covenants, Conditions and Restrictions as such Declaration may, from time to time, be amended. The "Original Declaration" shall mean the document referenced in the preamble to this Declaration.

Section 1.17. "Director" shall mean a Member of the Board of Directors of the Association.

Section 1.18. "Eligible Mortgage Holder" shall mean a first lender who has requested notice of certain matters from the Association in accordance with Section 16.12.

Section 1.19. "Eligible Insurer or Guarantor" shall mean an insurer or governmental guarantor of a first mortgage who has requested notice of certain matters from the Association in accordance with Section 16.12.

Section 1.20. "First Mortgage" or "First Mortgagee" is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Lot or other portions of the Project.

Section 1.21. "Household" shall mean the persons residing on a Lot as their principal place of residence.

Section 1.22. "Institutional Mortgagee" is a Mortgagee that is a bank or savings and loan association or Mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property or investing in such loans, or any insurance company or any federal or state agency or instrumentality, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Section 1.23. "Lease" means any agreement (written or verbal) under which a person is permitted to occupy a Residence for compensation of any kind including, without limitation, any fee, service, gratuity or other consideration while the Owner is not in residence. The verb "leasing" shall include renting or otherwise permitting a person other than an Owner to occupy a Residence for compensation of any kind including any fee, service, gratuity or other compensation while the Owner is not in residence.

Section 1.24. "Lot" shall mean and refer to any plot of land shown upon any recorded map of the Properties excluding the Common Area, and to the Residence and other improvements constructed on a Lot.

Section 1.25. "Map" shall mean and refer to the Subdivision Map of Tract No. 4971 filed in the Office of the County Recorder of Santa Clara County on June 3, 1971 in Book 284 of Maps at Pages 28, 29 and 30; and Subdivision Map of Tract No. 5352 filed in the Office of the County Recorder of Santa Clara County on June 16, 1976 in Book 373 of Maps at Page 26.

Section 1.26. "Member" shall mean and refer to every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Article XIV, Section 14.06 hereof.

Section 1.27. "Mortgage" means a mortgage or deed of trust encumbering a Lot or other portion of the Project. A "Mortgagee" shall include the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage.

Section 1.28. "Office of Recorder" shall mean the Office of the Recorder, County of Santa Clara, State of California.

Section 1.29. "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot (including contract sellers, but excluding those having such interest merely as security for the payment of a debt or the performance of an obligation) and includes, unless the context otherwise requires, the household, guests, tenants, and invitees of such Owner.

Section 1.30. "Owner of Record" and "Member of the Association" include an Owner and means any person, firm, corporation or other entity in which title to a Lot is vested as shown by the official records of the Office of the County Recorder.

Section 1.31. "Party Wall" shall mean any wall located on a property line dividing any Residence Lots, which wall is commonly used by any such Lots. The rights and responsibilities regarding Party Walls shall be governed by Article V of this Declaration.

Section 1.32 "Person" shall mean and include any individual, corporation, partnership, association or other entity recognized by the laws of the State of California.

Section 1.33. "Properties" shall mean and refer to that certain real property described in the first Recital to this Declaration and such additions thereto as may thereafter be brought within the jurisdiction of the Association. The Properties currently consist of 134 parcels of land with improvements designated on the recorded Maps for Tract No. 4971 and Tract No. 5352. The Properties are presently comprised of 132 Residences.

Section 1.34. "Regular Assessment" means an assessment levied on an Owner and the Owner's Lot in accordance with Article IV, Section 4.02 hereof.

Section 1.35. "Residence" means all of those residential and other improvements located on a Residence Lot.

Section 1.36. "Residence Lot" means any Lot within the Properties other than the Common Area.

Section 1.37. "Residential Use" shall mean occupation and use of a Residence for dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state or municipal rules and regulations.

Section 1.38. "Rules" shall mean Association Rules.

Section 1.39. "Special Assessment" means an assessment levied against an Owner and the Owner's Lot in accordance with Article IV, Section 4.03 hereof.

Section 1.40. "Special Individual Assessment" means an assessment made against an Owner in accordance with Article IV, Section 4.04 hereof.

Section 1.41. "Tenant" means and includes any renter of a Residence.

Section 1.42. "Voting Power" shall mean the total membership of the Association eligible to vote, that is, all memberships, except those suspended for default in payment of assessments or otherwise.

ARTICLE II

Property Rights

Section 2.01. Owners' Non-Exclusive Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including ingress and egress to and from the Owner's Lot, which shall be appurtenant to and shall pass with the title to every Lot, which easement and Lot are subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) The right of the Association to suspend the voting rights and right to use of the Common Area and/or Common Facilities by an Owner for any period during which any Regular, Special or Special Individual Assessment against the Owner, individually, remains unpaid.

(c) The right of the Association to adopt rules and regulations as provided in Article III, Section 3.08 hereof, and after prior notice of at least fifteen (15) days and a hearing before the Board, if requested by the Owner, to temporarily suspend the voting rights and right to the use of Common Area and/or Common Facilities by any Owner, the Owner's tenants and guests in accordance with Article XIV, Section 14.06.

(d) The right of the Association, to the extent reasonably necessary to protect the rights, privileges, benefits, uses and enjoyment of the Members in common, to limit the number of guests of Members who may use Common Area and/or recreation facilities and to adopt uniform Association Rules pursuant to Section 3.08 of Article III hereof regulating use and enjoyment of the Properties.

(e) The right of the Association, or its agents, when necessary, due to an emergency, to enter any Lot to perform its obligations under this Declaration, including the enforcement of restrictions, any obligations with respect to construction, maintenance

and repair as necessary for the benefit of the Common Area or the Owners in common, or to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property or the property of an Owner. The Association's right of entry for such purposes shall be immediate in case of an emergency originating in or threatening such Lot, and the Association's work may be performed under such circumstances whether or not the Owner is present.

(f) The right of the Association, subject to this Declaration (including Article VII, Section 7.02(i)), its Articles and the Bylaws to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to mortgage said property and grant a security interest in Association property including assessments; provided, the rights of any such mortgagee in the Common Area and facilities shall be subordinate to the rights of the Owners hereunder.

(g) The right of the Association to sell, dedicate or transfer all or any part of the Common Area to any person(s) and/or to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners. No such sale, dedication or transfer shall be effective unless approved by at least two-thirds (2/3rds) of the voting power of the Owners.

(h) The right of the Association to adopt and enforce Association Rules concerning the control and use of any private streets, roadways and paving areas located upon or across the Common Area, including the right to regulate the kind of vehicles and their speed and the parking of vehicles upon such private streets and roadways. The Association is authorized to delegate to a municipality or other governmental entity or to contract with any private security patrol company to exercise its authorized rights in connection with such private streets, roadways, and parking areas.

Section 2.02. Delegation of Use/Rights and Obligations of Landlords and Tenants.

(a) Leasing of Lots. Any Owner who leases a Residence must comply with each of the following restrictions, and each lease will be subject to these restrictions, whether they are expressly included within the lease or not.

(1) Each lease must be in writing.

(2) No lease shall be for a term of less than one hundred eighty (180) days.

(3) Leases shall provide that Tenants are subject in all respects to the provisions of this Declaration, the Bylaws, and Association Rules. The Board may adopt a lease addendum form which, if so adopted, shall be executed as part of each lease or rental agreement. A copy of the lease addendum shall be provided to the Board within fourteen (14) days of the time the Owner enters into the lease or rental agreement. Landlord shall provide Tenant with copies of this Declaration, the Bylaws and Association Rules.

(4) Owners shall notify the Secretary of the Association, or the managing agent, in writing, within fourteen (14) days of entering into a lease, of the names of all tenants and members of tenants' household occupying the Residence, and a description for each vehicle to be parked on the Properties by the residents of the Residence, including vehicle license plate numbers. Owners leasing their Residence additionally shall notify the Secretary of the Association of the address and telephone number where such Owner can be reached.

(5) The Owners shall supply to each of his tenants a copy of this Declaration, or a Board approved summary of this Declaration, and the Association Rules, at the Owner's expense. Any failure of the tenant to comply with this Declaration, the Bylaws or Association Rules shall be a default under the lease, regardless of whether the lease so provides. The Owner shall at all times be responsible for compliance of Owner's tenant with all of the provisions of this Declaration, the Bylaws and Articles and the Association Rules during the tenant's occupancy and use of the Residence.

(6) In the event that any tenant fails to honor the provisions of this Declaration, the Bylaws or the Association Rules, the Owner immediately shall take all action to cure the default including, if necessary, eviction of the tenant. The Association may maintain an eviction action against the tenant in the event that the Owner has not taken action to prevent and/or correct the actions of the Owner's tenant giving rise to the Common Area or Common Facility damage or nuisance after receiving written notice from the Association, or an authorized committee of the Board, detailing the nature of the violation and having a reasonable opportunity to either take appropriate corrective action on a voluntary basis or appear before the Board or committee to present arguments as to why such action is not necessary. The remedy provided by this subsection is not

exclusive and is in addition to any other remedy or remedies of the Association.

(b) Use of Common Facilities by Landlords. Any non-resident Owner who leases the Owner's Residence is no longer eligible to use the Common Facilities that the Owner would otherwise be entitled to use by virtue of the ownership of the Lot.

Section 2.03. Owner Registration. Each Owner shall notify the Secretary of the Association or the managing agent, if any, in writing, of the names of the Owner's household members occupying such Residence and of the address of the Owner, if not the property address, and the telephone numbers where the Owner can be reached, as well as the telephone number of the Residence. Further, all Owners shall provide a description for each vehicle to be parked on the Properties by residents of the Residence, including vehicle license plate numbers.

Section 2.04. Statutory Notification And Fees.

(a) As more particularly provided in Section 1368 of the California Civil Code, the Owner of the Lot, as soon as practicable before transfer of title or execution of a real property sales contract therefor, shall provide the following to the prospective purchaser: (1) a copy of the governing documents of the Association including this Declaration, the Articles and Bylaws and all amendments thereto; (2) a copy of the most recent financial statement distributed pursuant to California Civil Code Section 1365; (3) a true statement in writing obtained from an authorized representative of the Association as to the amount of any assessments levied upon the property sold that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the Owner's interest and unpaid on the date of the statement, together with true information on late charges, interest and costs of collection, which, as of the date of such statement are, or may be, a lien upon the property sold; and (4) a copy or a summary of any notice previously sent to the Owner pursuant to subdivision (h) of Section 1363 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The Association may charge a fee for this service, which shall not exceed the Association's reasonable cost to prepare and reproduce the requested items.

(b) The Association's fee in connection with the marketing of an Owner's interest will not exceed the Association's actual or direct costs. For purposes of this Subsection (b), the term "marketing" means listing, advertising, or obtaining or providing access to show the Owner's Townhouse.

Section 2.05. Easements to Accompany Conveyance of Lot. Easements that benefit or burden any Lot shall be appurtenant to that Lot and shall automatically

accompany the conveyance of the Lot, even though the description in the instrument of conveyance may refer only to the fee title to the Lot.

Section 2.06. Owners' Rights and Easements for Utilities. The rights and duties of the Owners of Lots within the Properties with respect to sanitary sewer, drainage, water, electricity, gas, pipes, vents, television receiving, telephone equipment, cables and lines, exhaust flues, and heating and air conditioning facilities, if any, (hereinafter referred to, collectively, as "utility facilities") shall be as follows:

(a) Whenever utility facilities are installed within the Properties, which utility facilities or any portion thereof lie in or upon a Lot or Lots owned by other than the Owner of a Lot served by said utility facilities, the Owners of any Lots served by said utility facilities shall have the right of reasonable access for themselves or for utility companies or the City of Santa Clara to repair, to replace and generally maintain said utility facilities as and when the same may be necessary.

(b) Whenever utility facilities are installed within the Properties which utility facilities serve more than one Lot, the Owner of each Lot served by the utility facilities shall be entitled to the full use and enjoyment of such portions of the utility facilities as service the Lot.

(c) In the event of a dispute between Owners with respect to the repair or rebuilding of said utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one Owner addressed to the other Owner(s), the matter shall be submitted to alternative dispute resolution as provided in Article XIV, Section 14.08 of this Declaration.

ARTICLE III

Homeowners Association

Section 3.01. Association Membership. Every Owner of a Lot shall be a Member of the Association which shall have the responsibility of owning, managing and maintaining the Common Area and discharging the other duties and responsibilities described in this Declaration, the Articles and the Bylaws. Such membership is appurtenant to and may not be separated from ownership of any Lot within the Properties.

Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles and Bylaws, the decisions and resolutions of the Association or the Board, as lawfully

amended from time to time. Failure to comply with any such decisions, or resolutions shall be grounds for an action (i) to recover sums due, (ii) for damages, (iii) for injunctive relief, or (iv) to enforce such provisions, decisions or resolutions. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or the Bylaws, shall be deemed to be binding on all Owners of Lots, their successors and assigns.

Section 3.02. Single Class of Membership. As more particularly provided in the Bylaws, the Association shall have one class of membership. The rights, duties, obligations and privileges of the Members shall be as set forth in the Articles, the Bylaws, this Declaration and the Association Rules.

Section 3.03. Voting Rights of Memberships. Each Member of the Association shall be entitled to one vote for each Lot owned by said Member. When more than one person holds an interest in any Lot, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Lot. Voting rights may be temporarily suspended under those circumstances described in Article XIV, Section 14.06 hereof.

Section 3.04. Assessments. Members of the Association shall be obligated to pay the assessments imposed by Article IV of this Declaration with respect to each Lot owned by said Member. Any assessments levied by the Association on its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.

Section 3.05. Transfer of Membership. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Lot to which it is appurtenant. In the case of a sale, membership passes automatically to the purchaser upon transfer of title to the Lot. In the case of an encumbrance of such Lot, a mortgagee does not have membership rights until the mortgagee becomes an Owner by foreclosure or deed in lieu thereof. Tenants who are delegated rights of use pursuant to Article II, Section 2.02 hereof do not thereby become Members, although the Tenant and members of the Tenant's household shall, at all times, be subject to the provisions of this Declaration, the Articles, Bylaws, and the Association Rules.

Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of the Lot, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

The Association may impose a reasonable transfer fee upon the sale or transfer of title to a Lot, said transfer fee to be consistent with the provisions of California Civil Code Sections 1366.1 and 1368(b) or any successor statutes thereto.

Section 3.06. Rights and Duties of the Association Board of Directors. The rights, duties and obligations of the Board of Directors of the Association shall be as set forth in this Declaration, the Articles, the Bylaws and the Association Rules.

Section 3.07. Powers and Authority of the Association. The Association shall have all of the powers of a non-profit mutual benefit corporation organized under the laws of the State of California in operating for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, Bylaws and this Declaration. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of this Declaration, the Bylaws and California law, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in Article VII hereof.

Section 3.08. Association Rules.

(a) Rulemaking Power. The Board may, from time to time, and subject to the provisions of this Declaration, propose, enact and amend the Association Rules of general application to the Owners of Lots within the Properties. Such Association Rules may concern, but need not be limited to, matters pertaining to use of the Common Area and Common Facilities, signs, collection and disposal of refuse, minimum standards of maintenance of landscaping or other improvements on any Lot, the elimination of improvements which obstruct the vision of motorists or which create a hazard for vehicular or pedestrian traffic, the keeping of household pets on Lots, and any other subject or matter within the jurisdiction of the Association as provided in this Declaration and the Bylaws of the Association. Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with, or materially alter, any provision of, or the rights, preferences and privileges of Members as set forth in the Articles or Bylaws of the Association or this Declaration. In the event of any material conflict between any Association Rule and any provision of the Articles, Bylaws or Declaration, the provision contained in the Articles, Bylaws or Declaration (as the case may be) shall prevail.

(b) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and a current copy thereof shall be maintained in the Association's corporate records.

(c) Amendment of Rules. The Association Rules may be amended from time to time by majority vote of the entire Board. Amendments to the Association Rules shall be distributed to the Owners either by mail or by personal delivery. Any duly adopted amendment to the Association Rules shall become effective forty-eight (48) hours after the date of distribution to the Owners or at such later date as the Board may deem appropriate under the circumstances following adoption of such amendment.

Section 3.09. Breach of Rules or Restrictions.

(a) In the event of a breach of any Rule or of any of the restrictions contained in the Bylaws or this Declaration by an Owner, the Owner's household, guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, shall enforce the obligations of each Owner to obey such Rules or restrictions in any manner provided by law or in equity, including but not limited to, appropriate hiring of legal counsel, the pursuing of legal action, or suspension of the Owner's right to use the Common Area and/or Common Facilities or suspension of the Owner's voting rights as a Member of the Association; provided, however, that any suspension for an infraction of the Association Rules may not be for a period in excess of sixty (60) days, after notice and, if requested, a hearing, as provided in Article XIV, Section 14.06, hereof. The provisions of this Section 3.09(a) shall not apply to the Association's rights, remedies, or legal action including but not limited to suspension of an Owner's right to use the Common Area and/or Common Facilities and suspension of the Owner's voting rights as a Member of the Association, resulting from an Owner's failure to pay assessments, as provided in Article IV of this Declaration.

(b) In addition to the other remedies herein set forth, the Board, by vote of a majority of a quorum, may levy a fine against such Owner, after appropriate notice and opportunity for a hearing as hereinafter provided, in an amount not to exceed two (2) monthly installments of the Regular Assessment for each such violation and the payment of such fine may be enforced as a Special Individual Assessment in the manner set forth in Section 4.04 of Article IV hereof. The Board also shall implement schedules of reasonable fines and penalties as part of its general rulemaking power. A violation shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board shall include one component for the violation and a per diem component for so long as the detrimental effect continues, according to the Board's discretion. Similar violations on different days shall justify cumulative imposition of discipline. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance in the Common Area at the cost of the responsible Owner; however no discipline may be founded upon continuance of a violation beyond a date when the Association should reasonably have commenced action to end it.

(c) Prior to imposing any penalty provided herein for breach of any Association Rules enacted hereunder or restrictions contained in this Declaration (other than late charges, interest and collection expenses, including attorney's fees incurred for non-payment of assessments), the Board shall comply with the procedures and requirements of Article XIV, Section 14.06, hereof.

ARTICLE IV

Assessments

Section 4.01. Assessments Generally.

(a) Each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), covenants and agrees to pay to the Association the Regular Assessments, Special Assessments and Special Individual Assessments hereinafter provided for and to allow the Association to enforce any assessment lien established hereunder by nonjudicial proceedings under a power of sale or by any other means authorized by law.

(b) Each installment payment of any Regular Assessment and each lump sum or installment payment of any Special Assessment or Special Individual Assessment, together with any interest charge provided for in subparagraph (e) hereof, late charges, and reasonable costs of collection, as assessed in accordance with California Civil Code Section 1366, attributable thereto or incurred in the collection thereof, shall be a separate debt of the Owner against whom the same has been assessed at the time the assessment or other sums are levied. Furthermore, each Regular Assessment and certain Special Assessments are hereby declared and agreed to be a lien upon and against the Lot so assessed in the nature of a mortgage with a power of sale in accordance with California Civil Code Section 2924 (or a comparable superseding statute), all as more particularly described in Section 4.09 of this Article IV. Special Individual Assessments may be imposed as a lien against the Owner's Lot only in those instances specifically identified in Section 4.04 of this Article IV.

(c) Each Owner who acquires title to a Lot (whether at a judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot so purchased which become due and payable after the date of purchase by such Owner; provided that any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner against whom assessed and any lien created pursuant to the provisions of this Article IV by reason of such unpaid Assessment shall remain in force and effect as a lien on the Lot sold and may be subject to foreclosure as provided in Section 4.09 hereof.

(d) If any installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment or Special Individual Assessment assessed to any Owner is not paid within fifteen (15) days after the same becomes due, such payment shall be delinquent and the amount thereof shall be subject to a late charge not exceeding ten percent (10%) of the delinquent assessment or Ten Dollars ($10.00) whichever is greater, pursuant to California Civil Code, Section 1366(d) or such larger sum as may hereafter be allowed by such statute or any successor statute thereto. Notwithstanding the above, if the delinquency day does not fall on a business day, the delinquency date shall be the first business day which is more than fifteen (15) days after the delinquency date.

(e) Interest on Regular and Special Assessments together with reasonable costs of collection and late charges shall accrue at an annual percentage rate of twelve percent (12%) per annum commencing thirty (30) days after the assessment becomes due, or at such higher interest rate as may hereafter be permitted by California Civil Code Section 1366(d)(3) or any successor statute thereto.

(f) No Owner may exempt the Owner or the Owner's Lot from liability or charge for the Owner's share of any Regular, Special or Special Individual Assessment rightfully made and assessed against the Owner and the Owner's Lot by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Area or Common Facilities or by the abandonment or nonuse of the Lot.

Section 4.02. Regular Assessment.

(a) Estimate. Not less than forty-five (45) nor more than sixty (60) days prior to the beginning of each fiscal year of the Association, the Board shall estimate the anticipated Common Expenses (including prudent contributions to the capital reserve fund for replacement of Common Facilities) for the next succeeding fiscal year and shall deduct therefrom the amount of any estimated surplus which will remain from the current year's Assessment. In preparing its annual estimates of Common Expenses and the appropriate deductions therefrom on account of surplus, the Board shall consider the Common Expenses all as more particularly provided in Exhibit "B" attached hereto. Association assessments or charges shall include an adequate reserve fund for maintenance, repair and replacement of those improvements which the Association is obligated to maintain and that must be replaced on a periodic basis, and the assessments therefor shall be payable in regular installments rather than by Special Assessments. The total expenses (less deductions) thus estimated shall be allocated among all the Lots within the Properties in the manner described in subparagraph (b) of this Section 4.02 as the Regular Assessment for such Lot; notwithstanding any other provision in this Declaration to the contrary, the Board may not impose a Regular Assessment for any

fiscal year more than twenty percent (20%) above the Regular Assessment for the Association's preceding fiscal year without the approval of a majority of the votes at a meeting of the Members of the Association at which a quorum is present. Alternatively, the approval of the Members may be obtained by written ballot pursuant to California Corporations Code Section 5513. For purposes of this Section, a quorum means more than fifty percent (50%) of the Owners of the Association, and the meeting must be conducted in accordance with Corporations Code Sections 7510-7527, 7613.

The foregoing restrictions on assessment increases do not apply to increases necessary for emergency situations. For purposes of this Section 4.02 an emergency situation is any one of the following:

(1) An extraordinary expense required by an order of the court.

(2) An extraordinary expense necessary to repair or maintain the Properties or any part of it that the Association is responsible to maintain when a threat to personal safety on the property is discovered.

(3) An extraordinary expense necessary to repair or maintain the Properties or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under California Civil Code Section 1365, provided that before the imposition or collection of any assessment under this subparagraph the Board must pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Members with the notice of assessment.

However, the Board may not increase the Regular Assessment for a fiscal year as provided herein unless the Board has complied with subdivision (a) of Section 1365 of the California Civil Code with respect to that fiscal year, or has obtained the approval of Owners, constituting a quorum, casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. "Quorum" for purposes of such a vote means more than fifty percent (50%) of the Owners of the Association.

This Section 4.02(a) incorporates the statutory requirements of California Civil Code Section 1366(b). If this Section of the California Civil Code is amended in any

way, this Section 4.02(a) automatically shall be amended in the same manner without the necessity of amending this Declaration.

(b) Allocation of Regular Assessments Among the Owners. The total estimated Common Expenses shall be divided equally among, assessed against and charged to all Lots within the Properties. Furthermore, the provisions of Article XI shall control over this Section 4.02(b) in the event of conflict.

(c) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded upon an assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or the Owner's authorized representative. The assessment roll shall show for each Lot the name and address of the Owner of record thereof, all Assessments, whether Regular or Special, levied against each Owner and the Owner's Lot, and the amount of such Assessments which have been paid or remain unpaid. A certificate executed and acknowledged by the Secretary, Treasurer or designated management representative of the Association stating the indebtedness secured by any lien created hereunder upon any such Lot shall be conclusive upon the Association and the Owner of such Lot as to the amount of such indebtedness as of the date of such certificate, in favor of all persons who rely thereon in good faith, and such a certificate shall be furnished by the Association to any Owner or to any first Mortgagee under a Mortgage encumbering a Lot upon written request therefor at a reasonable fee payable to the Association.

(d) Mailing. The Board of Directors shall cause to be mailed to each Owner at the street address of the Owner's Lot, or at such other address as such Owner may from time to time designate to the Association in writing, a statement of the amount of the Regular Assessment assessed against the Owner's Lot for the next succeeding fiscal year after determination thereof in accordance with Section 4.02(a) hereof. The Association shall provide notice by first-class mail to the Owners of any increase in the Regular Assessments of the Association, not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due.

(e) Failure to Make Estimate. If, for any fiscal year, the Board of Directors shall fail to make an estimate of the Common Expenses, the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.03 hereof for that year, shall be assessed against each Owner and the Owner's Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic assessment shall be payable on the regular payment dates established by the Association.

(f) Installment Payment. The Regular Assessment made against each Owner shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other date or dates as may be established from time to time by the Board. Monthly installments of Regular Assessments shall be delinquent if not paid by the fifteenth (15th) day of the month. In the event of delinquency, the Board may accelerate all remaining monthly installments for the current assessment year.

Section 4.03. Special Assessments.

(a) Special Assessments. The Board, at any time, may levy a Special Assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such purposes as the Board in its discretion considers appropriate. Special Assessments hereunder may be imposed upon Board action alone except in those instances where membership approval is required pursuant to the subparagraph (c) of this Section 4.03.

(b) Capital Improvements. Subject to subparagraph (c) of this Section 4.03 and Article VIII, Section 8.02(c) of this Declaration, the Association may also levy Special Assessments for capital improvements of the Common Area and Common Facilities unrelated to repairs for damage or normal wear and tear to or destruction of the Common Facilities. In addition to the foregoing, but also subject to subparagraph (c) of this Section 4.03 and Article IX, Section 9.03(b) of the Bylaws, the Board on its own motion may undertake the construction, installation or acquisition of a capital improvement. Furthermore, the provisions of Article XI shall control over this Section 4.02(b) in the event of conflict.

(c) Assessment Increases Requiring Membership Approval. As more particularly provided in California Civil Code Section 1366(b), no Special Assessment described in subparagraphs (a) or (b) hereof shall be made by the Board of Directors whereby the Special Assessments in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the approval of Owners, constituting a quorum, casting the majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. Written notice of any such meeting shall be given not less than ten (10) nor more than ninety (90) days in advance of the meeting specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. The action may also be taken without a meeting pursuant to the provisions of California Corporations Code Section 7513. For purposes of this Section 4.03(c) the term "quorum" means more than fifty percent (50%) of the Members.

The provisions of this subsection do not limit assessment increases for emergency situations. For purposes of this Section emergency situations are any one of the following:

(1) An extraordinary expense required by an order of the court.

(2) An extraordinary expense necessary to repair or maintain the Properties or any part of it that the Association is responsible to maintain when a threat to personal safety on the property is discovered.

(3) An extraordinary expense necessary to repair or maintain the Properties or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under California Civil Code Section 1365, provided that before the imposition or collection of any assessment under this subparagraph the Board must pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Members with the notice of assessment.

This Section 4.03(c) incorporates the statutory requirements of California Civil Code Section 1366(b). If this Section of the California Civil Code is amended in any way, this Section 4.03(c) automatically shall be amended in the same manner without the necessity of amending this Declaration.

(d) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above a Special Assessment levied under subparagraph (a) shall be allocated among the Members as provided in Section 4.02(b) hereof, and a Special Assessment levied under subparagraph (b) shall be equally divided among, assessed against and charged to such Members and their Lots and shall be recorded on the Association's assessment roll in accordance with Article IV, Section 4.02(c) of this Declaration and notice thereof shall be mailed to each Owner subject thereto. Special Assessments for purposes described in subparagraph (a) shall thereafter be due as a separate debt of the Owner and a lien against the Owner's Lot, which debt shall be payable to the Association in lump sum, or monthly installments, which installments may not extend beyond the remainder of the then current fiscal year, as the Board shall determine. Special Assessments for purposes described in subparagraph (b) shall thereafter be due as a separate debt and payable in full to the Association. The Association shall provide notice by first-class mail to the Owners of any Special

Assessments described in subparagraphs (a) or (b) of this Section 4.03 not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due.

Section 4.04. Special Individual Assessments.

(a) In addition to the Special Assessments provided for in Section 4.03 hereof, the Association may also impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (1) through (3) below. A lien may be imposed only for Special Individual Assessments described in Subsection (a)(1) of this Section 4.04.

(1) Damage to Common Area. In the event the Association incurs costs in the repair of damage to Common Areas and Common Facilities, for which an Owner or the Owner's guests or tenants were responsible, the Association may impose a monetary penalty against the Owner for such costs. Such costs shall be assessed and charged solely to and against such Owner and the Owner's Lot as a Special Individual Assessment. Nothing in this Subsection (1) shall require the Board to make a claim on any insurance carrier issuing a policy relating to the Common Area in the event of any such damage or destruction.

(2) Act Increasing Insurance Premiums. In the event any act or omission of any Owner, any Member of his or her Household, or any of his or her tenants, guests, servants, employees, licensees or invitees, shall in any way cause or be responsible for any increase in the premiums for any insurance purchased or obtained by the Association in accordance with the provisions of Article XI hereof, the amount of such increase may, in the discretion of the Board, be assessed and charged solely to and against such Owner as a Special Individual Assessment but without right to record a lien.

(3) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses, including reasonable title company, accounting or legal fees, or fees or costs of experts or consultants, to accomplish (i) any repair, under this Declaration, the Bylaws or the Association Rules, (ii) to prevent the continued maintenance of a nuisance or (iii) otherwise bring the Owner and/or the Owner's Lot into compliance with the provisions of this Declaration, the Bylaws or the Association Rules, the amount incurred by the Association or any monetary penalties and interest thereon duly imposed hereunder shall be assessed and charged solely

to and against such Owner as Special Individual Assessment but without right to record a lien; provided that Special Individual Assessments of the kind described in this Subparagraph (a)(3) may only be imposed after the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Article XIV, Section 14.06 hereof, and has been given a reasonable opportunity to comply voluntarily with the Association's governing documents before the assessment is imposed.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in subparagraph (a) of this Section 4.04, such Special Individual Assessments shall be entered on the Association assessment roll, notice thereof shall be mailed to the affected Owner and the Special Individual Assessment shall thereafter be due as a separate debt of the Owner.

Special Individual Assessments imposed pursuant to Section 4.04(a)(2) or (3) hereof may not be characterized nor treated as an assessment which may become a lien against the Member's Lot. Special Individual Assessments imposed pursuant to Section 4.04(a)(1) may become a lien against the Member's Lot as provided in Section 4.09 of this Article IV. However, this Section 4.04(b) shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments.

Special Individual Assessments imposed pursuant to either Section 4.04(a)(1) or 4.04(a)(3) shall be payable in full to the Association within thirty (30) days after the mailing of notice of the assessment and Special Individual Assessments imposed pursuant to Section 4.04(a)(2) shall be payable in full to the Association at least ten (10) days in advance of the date or dates for the payment of the increased insurance premium giving rise to the assessment.

Section 4.05. Purpose and Reasonableness of Assessments. Each Assessment, whether it be a Regular, Special or Special Individual Assessment, made in accordance with the provisions of this Declaration, is hereby declared and agreed (a) to be for use exclusively to promote the recreation, health, safety and welfare of the residents of the Properties by the Owners and their families, tenants, invitees, licensees, guests and employees, or for the repair, maintenance, replacement and protection of the Common Areas and Common Facilities within the Properties and other portions of the Properties that the Association is obligated to maintain and repair under Article VI of this Declaration, (b) to be a reasonable assessment, and (c) to constitute a separate, distinct

and personal obligation (with respect to which a separate lien may be created as provided in Section 4.04 above) of the Owner of the Lot against which the Assessment is made and shall bind his or her heirs, successors and assigns; provided that the personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 4.06. Exemption of Certain of the Properties from Assessments. The following real property subject to this Declaration, unless devoted to use as a residential dwelling, shall be exempt from the Assessments and the lien thereof provided herein:

(a) Any portion of the Properties dedicated and accepted by a local public

(b) The Common Area and Common Facilities.

(c) Any Lot owned by the Association.

Section 4.07. Notice and Procedure for any Action Authorized Under Sections 4.02 and 4.03. Any action authorized under Sections 4.02 or 4.03 of this Article IV requiring the vote of the Association Members shall be taken either by written ballot or at a meeting of the Members called for that purpose, written notice of which shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting or return date of the written ballots.

Section 4.08. Maintenance of Assessment Funds.

(a) Deposit; Bank Account. All sums received or collected by the Association from Assessments, whether Regular or Special, together with any interest charge thereon, shall be promptly deposited in a checking and/or savings account in an insured depository selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of said account(s) and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code Section 1365.5 and Article XII, Section 12.09 of the Bylaws.

To preclude a multiplicity of bank accounts, the proceeds of all assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. Any interest received on such deposits shall be credited proportionately to the balances of the various

assessment fund accounts maintained on the books of the Association as provided in subparagraph (b) below, or may be allocated exclusively to reserve funds. However, reserve funds shall be segregated and placed in a separately designated bank account, together with all interest generated therefrom.

(b) Separate Accounts; Commingling of Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such assessment was levied, such surplus, in the Board's discretion, may be (1) returned proportionately to the contributors thereof; (2) reallocated among the Association's reserve accounts if any such account is underfunded, in the Board's opinion; or (3) credited proportionately on account of the Owner's future regular assessment obligations.

For purposes of accounting, the Association shall keep a separate account of all funds received by it in payment of each Assessment, and of all disbursements made therefrom. Receipts and disbursements of Special Assessments made pursuant to Section 4.03(a) of this Article IV shall be combined with the receipts and disbursements of the Regular Assessments. All other reserve funds and the interest thereon shall be deposited in a separately designated account. The use of reserve funds is restricted as provided in Sections 12.12 and 12.13 of the Restated Bylaws.

Section 4.09. Effect of Non-Payment of Assessments; Enforcement of Liens.

(a) At least thirty (30) days prior to recording a lien upon the separate interest of an Owner to collect a debt which is past due under this Article IV, the Association shall notify the Owner in writing, by certified mail of the following:

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

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

(3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association.

(4) The right to request a meeting with the Board as provided by subparagraph (c).

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

(6) An Owner may dispute the debt noticed pursuant to subparagraph (a) by submitting to the Board a written explanation of the reasons for his or her dispute. The Board shall respond in writing to the Owner within fifteen (15) days of the date of the postmark of the explanation, if the explanation is mailed within fifteen (15) days of the postmark of the notice.

(7) An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt noticed pursuant to subparagraph (a). The Association shall provide the Owners the standards for payment plans, if any exist. The Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days of the date of the postmark of the notice, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner.

(b) The amount of the delinquent Regular or Special Assessment, plus any costs of collection (including but not limited to attorneys fees), late charges, and interest assessed in accordance with this Article IV, shall become a lien upon the Residence and Lot of the Owner so assessed from and after the time the Association causes to be recorded with the County Recorder a Notice of Delinquent Assessment which shall state the amount of the assessment or other sums imposed in accordance with this Declaration and consistent with California Civil Code Section 1366, a legal description of the Owner's interest against which the assessment or other sums are levied, the name of the

record Owner of the Owner's interest against which the lien is imposed and, in order for the lien to be enforced by non-judicial foreclosure as provided in Civil Code Section 1367, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment shall be mailed in the manner set forth in Section 2924b, to all record owners of the Owner's interest no later than ten (10) calendar days after recordation. The notice shall be signed by any officer of the Association or any agent of the Association authorized to do so by the Board.

(c) Within twenty-one (21) days of the payment of the sum specified in the notice of delinquent assessment, the Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Owner of the Townhouse a copy of the lien release or notice that the delinquent assessment has been satisfied.

(d) If it is determined that a lien previously recorded against the Townhouse was recorded in error, the party who recorded the lien shall, within twenty-one (21) calendar days, record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Owner of the Townhouse with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

(e) The Association may bring an action at law against the Owner personally obligated to pay the delinquent assessment, or foreclose its lien against the Owner's Residence and Lot. Provided, however, that lien enforcement proceedings shall not be undertaken until the expiration of thirty (30) days following the recording of the Notice of Delinquent Assessment pursuant to this Section 4.09(c). Furthermore, the right of foreclosure in the case of Special Individual Assessments described in Section 4.04(a)(2) and (3) hereof shall only exist to the extent specifically provided in Section 4.04(b) of this Article IV. To the extent permitted hereunder, foreclosure by the Association of its lien may be by judicial foreclosure or by non-judicial foreclosure, in the same manner as the foreclosure of a mortgage or deed of trust upon real property under the laws of the State of California. Non-judicial foreclosure shall be commenced by the Association or its duly authorized agent by recording in the Office of the County Recorder a notice of default, which notice shall state all amounts which have become delinquent with respect thereto and the costs (including attorneys' fees), penalties and interest which have accrued thereon, the amount of any assessment which is due and payable although not delinquent, a description of the property in respect to which the delinquent assessment is owed, the name and address of the trustee authorized by the Association to enforce the lien by sale and the name of the record or reputed Owner thereof. The Association shall have the rights conferred by Section 2934a of the Civil Code to assign its rights and obligations as trustee in any non-judicial foreclosure proceeding to the same extent as a trustee designated under a deed of trust and for purposes of said Section 2934a the Association

shall be entitled to employ the services of a title insurance company or responsible company engaged in the business of acting as a trustee in foreclosure to act as an agent on behalf of the Association in commencing and prosecuting the foreclosure process.

The notice of default shall state the election of the Association to sell the Lot or other property to which the amounts relate and shall otherwise conform with the requirements for a notice of default under Section 2924c of the California Civil Code. The recordation of the notice of delinquency shall correspond to the recordation of a notice of default under Section 2924 of the California Civil Code. The Association or its assignee shall mail a copy of the notice to the Owner or reputed Owner at the last address appearing on the books or records of the Association, and to any person to whom the giving of notice is required by applicable provisions of Section 2924b of the California Civil Code. In the event such notice is given by the Association or its assignee, the Owner and junior encumbrancers shall have reinstatement rights identical to those provided by law for trustors or mortgagors, which rights must be exercised during the period specified by law for reinstatement of obligations secured by deeds of trust.

After the lapse of such time as may then be required by law following the recordation of a notice of default under a deed of trust, the Association or its assignee may give notice of sale in the manner and for the period required in the case of deeds of trust. After the giving of the notice of sale, the Association, or its assignee, without demand on the Owner, may sell the Lot and Residence or other property at the time and place fixed in the notice of sale, at public auction to the highest bidder for cash in lawful money of the United States, payable at the time of sale. The Association or its assignee may postpone sale by public announcement at the time fixed by the preceding postponement. The Association shall deliver to the purchaser at such foreclosure sale the Association's deed conveying the Lot or other property so sold, but without covenant or warranty, express or implied. The recitals in such deeds shall be conclusive proof of the truthfulness thereof. Any person, including the Association, may bid on the property and purchase the same at such sale.

After deducting all costs, fees, and expenses of the Association from the sale proceeds, the Association or its assignee shall apply the balance of the proceeds of sale to payment of all sums secured by its lien at the time of sale, including interest, costs and attorneys' fees, and the remainder, if any, shall be disbursed to the person or persons legally entitled thereto.

During the period a Lot is owned by the Association, following foreclosure: (1) no right to vote shall be exercised on behalf of the Lot; (2) no assessment shall be assessed or levied on the Lot; and (3) each other Lot shall be charged, in addition to its usual assessment, its share of the assessment that would have been charged to such Lot had it not been acquired by the Association as a result of foreclosure. After acquiring title to

the Lot at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the Lot, which deed shall be binding upon the Owners, successors, and all other parties.

Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosure or waiving the lien securing the same. Furthermore, the Board may take such additional action, consistent with this Declaration, as is necessary or appropriate to enforce its assessment rights hereunder.

Section 4.10. Transfer of Lot by Sale or Foreclosure. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure by the mortgagee of the first mortgage of record shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer (except for assessment liens recorded prior to the mortgage). No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Where the mortgagee of the first mortgage of record or other purchaser of a Lot obtains title to the same as the result of foreclosure of any such first mortgage, the person acquiring title, the Owner's successors and assigns, shall not be solely liable for the share of the common expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from Owners of all of the Lots including such acquirer, the Owner's successors and assigns.

If a Lot is transferred, the grantor shall remain liable to the Association for all unpaid assessments against the Lot through and including the date of the transfer. The grantor shall be entitled to a statement from the Association dated as of the date of transfer, setting forth the amount of unpaid assessments against the grantor due the Association and the Lot so transferred shall not be subject to a lien for unpaid assessments in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such assessment that becomes due after the date of the transfer.

Section 4.11. Priorities. When a notice of delinquent assessment has been recorded, such assessment shall constitute a lien on each respective Lot prior and superior to all other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (b) the lien or charge of any first mortgage of record made in good faith and for value; provided, however, that such subordination shall apply only to the assessment installments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such mortgage or deed of trust or

pursuant to the power of sale in such mortgage or deed of trust. Such foreclosure shall not relieve such property from liability for any assessment installments thereafter becoming due or from the lien of any such subsequent assessment.

Section 4.12. Unallocated Taxes. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the assessments made under the provisions of Section 4.02 of this Article IV and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes to be paid in installments as determined by the Board.

Section 4.13. Assignment of Rents. Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or agreement or otherwise for the use or occupation of any or all parts of any Lot owned by the Owner, now existing or hereafter made, for the purpose of collection of all assessments due the Association pursuant to this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies as they become due and payable; provided, however, that the Association in its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of assessments. Upon revocation of such authority the Association may, pursuant to court order or by court appointed receiver, collect and retain such monies, whether past due and unpaid or current.

Section 4.14. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article IV, the benefit of any homestead or exemption law of California in effect at the time any assessment or installment thereof becomes delinquent or any lien is imposed.

Section 4.15. Statement of Defaults. Within ten (10) days of the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (a) whether to the knowledge of the Association, the Owner or the Owner's Lot is in violation of any of the provisions of this Declaration, the Articles, Bylaws, or Association Rules; (b) the amount of Regular and Special Assessments, including installment payments, paid by the Owner during the fiscal year the request is received; and (c) the amount of any assessments levied against the Owner's Lot that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that as of the date of the statement are or may be made a lien against the Owner's Lot as provided by this Declaration, the Articles, Bylaws, or Association Rules.

ARTICLE V

Residence Party Walls

Section 5.01. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Residences within the Properties and placed on the dividing line between the Residence Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 5.02. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportion to such use.

Section 5.03. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 5.04. Weatherproofing. Notwithstanding any other provisions of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner whose negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5.05. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5.06. Alternative Dispute Resolution. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, then, upon written request of one Owner addressed to the other Owner(s), the matter shall be submitted to alternative dispute resolution as provided in Article XIV, Section 14.08 of this Declaration.

ARTICLE VI

Maintenance

Section 6.01. Association Maintenance and Repair.

(a) Common Area. The Association shall maintain, repair, replace, restore, operate and manage all of the Common Area and Common Facilities. Maintenance shall include (without limitation): Painting, maintaining, cleaning, repairing and replacing of the Common Area, including landscaping, parking areas and recreational facilities.

(b) Common Area Termites. The Association shall have the Common Area periodically inspected for termites and shall take appropriate corrective measures therefor. The Association shall be responsible for repair and maintenance of the Common Area occasioned by the presence of wood-destroying pests or organisms.

(c) Negligent Damage. The financial responsibility of the Association for maintenance and repair under this Section 6.01 shall not extend to repairs or replacement arising out of or caused by the willful or negligent act or negligence of an Owner, or the Owner's household members, guests, tenants or invitees. The cost of repair or replacement resulting from such willful or negligent acts shall be the responsibility of the Owner who caused or whose household members, guests, tenants or invitees caused such damage. The cost thereof shall constitute a Special Individual Assessment chargeable to such Residence and shall be payable to the Association by the Owner of such Residence.

(d) Residences and Lots. The Association shall perform maintenance on and repair and replace the following limited construction components on the separately owned Lots as follows:

(1) Roofs, gutters, downspouts and chimney caps.

(2) Paint, stain and finish exterior wood siding, trim, and exterior side of Residence, including chimney exterior.

(3) Trees, shrubs, grass, walks, and fences located on unenclosed portions of the Lot.

(4) Fences.

(5) All utility lines located outside the foundation of the Residence not

Section 6.02. Owner Maintenance and Repair

(a) Except for the limited maintenance and repair of certain components of the Properties which the Association is required to maintain and repair as provided in Section 6.01(d) of this Declaration, each Lot Owner shall, at the Owner's sole cost and expense,

maintain and repair the Owner's Lot and the improvements thereon. Such maintenance and repair shall be performed by the Owner so as to keep the Owner's Lot in a condition of good order and repair, and in accordance with the Association Rules.

(b) Each Owner shall be solely responsible for maintenance, repair and replacement of window assemblies, glazing, glass surfaces and skylight assemblies.

(c) Each Owner shall be responsible for the maintenance, repair and replacement of Residence entry doors, screen doors and all door frames and hardware for the Residence, including openers, hinges, bolts, locks and weatherstripping, except the painting of the exterior of doors, such painting, staining or finishing being the obligation of the Association under Section 6.01 of this Article VI.

(d) Each Owner shall bear the cost of maintenance, repair and replacement of the following items within or serving such Owner's dwelling: heating, ventilating and air-conditioning equipment servicing such Residence (and located beneath the Residence).

(e) Each Owner shall bear the cost of all pipes and conduits serving the Owner's Lot and located beneath the Residence.

(f) Each Owner of a Lot is responsible for the repair and maintenance of the Lot including the Residence, as may be occasioned by the presence of wood-destroying pests or organisms. The expense of any temporary relocation during repair and maintenance of the Lot and/or Residence shall be the responsibility of the Lot Owner.

(g) Each Owner shall be responsible for maintenance, repair and replacement of enclosed yard areas, except for fences as provided in Section 6.01(d)(5).

(h) Each Owner shall be responsible for the cleaning of all vents serving only the Owner's Residence.

(i) Each Owner shall be responsible for maintaining, repairing and replacing the doorbell and wiring for the doorbell of the Owner's Residence and all exterior lights attached to the Residence.

(j) Each Owner shall be responsible for maintaining, repairing and replacing all wiring for utilities which service the Owner's Lot or Residence, up to the point of connection to a line serving more than one Lot or Residence.

(k) Each Owner shall be responsible for maintaining, repairing and replacing all fireplace flues and chutes.

(l) A Residence may be modified by an Owner, at the Owner's sole expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which may be hazardous to such persons, subject to the limitations and requirements set forth in Section 1360 of the California Civil Code as that statute may be amended, revised or altered and of this Declaration, the Bylaws and the Rules.

Section 6.03. Repairs for Owners. In the event an Owner fails to maintain the Residence or Lot in a manner which the Board deems necessary to preserve the appearance and value of the property, the Board may notify Owner of the work required and request it be done within thirty (30) days from the giving of such notice. In the event Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner.

Section 6.04. No Rubbish. All Lots, whether occupied or unoccupied, shall at all times be maintained in such a manner as to prevent their becoming unsightly by the reason of the accumulation of rubbish, debris or unsightly growth thereon.

ARTICLE VII

Duties and Powers of the Association

Section 7.01. Duties. In addition to the duties enumerated in its Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

(a) Maintenance. The Association shall maintain, repair, replace, restore, operate and manage all of the Common Area as more particularly set forth in Article VI, Section 6.01(a) of this Declaration.

(b) Insurance. The Association shall maintain such policy or policies of insurance as are required by Article XI of this Declaration.

(c) Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof to the Member or Members responsible for the existence of said lien.

(d) Assessments. The Association shall fix, levy, collect and enforce assessments as set forth in Article IV hereof.

(e) Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

(f) Enforcement. The Association shall enforce this Declaration. The Association shall maintain and operate the Common Area and Common Facilities in accordance with all applicable municipal, state, and federal laws, statutes and ordinances, as the case may be. The Association shall also, as a separate and distinct responsibility, insure that third parties (including Owners and their guests) utilize the Properties in accordance with the aforementioned regulations. The Association shall, when it becomes aware of any violation of the aforementioned regulations, expeditiously correct such violations.

Section 7.02. Powers. In addition to the powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

(a) Utility Service. The Association shall have the authority to obtain, for the benefit of all of the Residences, all water, gas and electric service and refuse collection, janitorial and CATV or cable television service.

(b) Easements. The Association shall have authority, by document signed or approved by two-thirds (2/3rds) of the total voting power of the Association, to grant or convey to any third person permits, licenses, rights of way and easements in addition to those shown on the Map, in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder, roads, utilities, overhead or underground lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser in accepting a deed to a lot, expressly consents hereto. Nothing in this Section 7.02(b) shall limit the power of the Board of Directors as provided in Section 10.04 of this Declaration.

(c) Manager. The Association may employ a manager and may employ other persons and contract with independent contractors to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, or make capital expenditures. The term of any management contract shall be limited as provided in Section 16.14 of this Declaration.

(d) Adoption of Rules. The Board of Directors may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Properties including the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Properties and other Owners. Written copies of such Rules and any schedule of fines and penalties adopted by the Board shall be furnished to Owners.

(e) Access. For the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of Directors of their respective responsibilities, the Association's agents or employees shall have the right in non-emergency situations, after reasonable written notice (not less than twenty-four (24) hours except in emergencies) to enter a Lot (but not the Residence) at reasonable hours. Such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association.

(f) Assessments, Liens and Fines. The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay assessments or for violation of any provision of the Declaration, Bylaws and/or the Association Rules. Penalties may include but are not limited to: fines, temporary suspension of voting rights, rights to the use of Common Facilities or other appropriate discipline, provided that the accused Member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose discipline is made.

(g) Enforcement. The Association shall have the authority to enforce this Declaration as provided in Article XIV hereof.

(h) Acquisition and Disposition of Property. The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of real property shall be by document signed or approved by two-thirds (2/3) of the Members.

(i) Loans. The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of a majority of the total voting power of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred. Borrowing of money by the Association shall require the assent (by vote or written consent) of a majority of the total voting power of the Association except as authorized by Article IX, Section 9.03(e) of the Bylaws.

(j) Contracts. The Association shall have the power to contract for goods and/or services for the Common Area, facilities and interests or for the Association, subject to limitations elsewhere set forth in the Articles, Bylaws or this Declaration. The Association shall not enter into any contract with an independent contractor until the independent contractor submits proof to the Association that it has procured worker's compensation insurance as required by law and the Association receives adequate proof of licensure if required by law, and such liability insurance as the Board deems appropriate.

(k) Delegation. The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

(1) To make expenditures for capital additions or improvements chargeable against the reserve funds;

(2) To conduct hearings concerning compliance by an Owner or the Owner's Tenant, guest or invitee with the Declaration, Bylaws or Association Rules promulgated by the Board;

(3) To make a decision to levy monetary fines, impose Special Assessments against individual Residences, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;

(4) To make a decision to levy Regular or Special Assessments; or

(5) To make a decision to bring suit, record a claim of lien or institute foreclosure proceedings for default in payment of assessments.

(l) Use of Recreational Facilities. The Board shall have the power to limit the number of an Owner's tenants or guests who may use the recreational facilities, provided that all limitations apply equally to all Owners, unless imposed for disciplinary reasons, after notice and hearing, as provided in the Bylaws.

(m) Security. The Association shall have the power to contract for security service for the Common Area.

(n) Appointment of Trustee. The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce assessment

liens by sale as provided in Article IV, Section 4.09 and California Civil Code Section 1367(b).

(o) Other Powers. In addition to the powers contained herein, the Board may exercise the powers granted to a nonprofit mutual benefit corporation under California Corporations Code Section 7140.

ARTICLE VIII

Architectural Control

Section 8.01. Improvements in General; Establishment of Architectural Committee.

(a) Architectural Committee Approval. No building, fence, gate, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement or other structure or exterior change of any kind shall be commenced, erected or maintained upon the Properties or any portion thereof, nor shall the exterior color of any structure, including any Residence, be changed, nor shall any exterior addition to or change or alteration of the Common Area or Exclusive Use Common Area be made, until a written application for approval of the proposed work, supported by plans and specifications showing the nature, color, kind, shape, height, materials, and location of the same, has been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or its designated Architectural Committee (which shall be composed of three (3) or more representatives appointed by the Board). Said plans and specifications shall be submitted to the Board by personal delivery or certified mail to the Secretary or managing agent of the Association or the Chairman of the Architectural Committee. Members of the Board of Directors shall be eligible to serve as members of the Architectural Committee.

(b) Additional Information. The Board or Committee shall have the right to request additional information regarding the work of improvement if the request is delivered to the applicant in writing within thirty (30) days following the date the initial application was filed. The Board also may determine if there is opposition to the application by one or more neighbors in which case the Board may request written comment from the affected neighbor(s). The Board or Committee shall make its determinations and recommendations within forty-five (45) days following the date of the initial application or, in the event that additional information has been requested of the applicant, within forty-five (45) days after such additional information is received. If the

Board or Committee fails to disapprove an application within forty-five (45) days of the completion of the application the same shall be deemed to be unconditionally approved.

(c) Architectural Standards. The Board may, from time to time, adopt and promulgate Architectural Standards which may include, among other things, limitations

and restrictions regulating the placement, kind, shape, height, materials, species and location of any improvement; a description of the improvements which, if completed in conformity with the Architectural Standards, do not require the approval of the Board or Architectural Committee; and time limitations for the completion of improvements for which approval is required pursuant to the Architectural Standards.

(d) Owner Responsibility. By approving plans and specifications, the Board and the Architectural Committee do not assume any liability or responsibility for compliance with building or zoning ordinances, which compliance shall be the sole responsibility of the applicant. Neither the Architectural Committee, nor any member thereof, nor the Board of Directors shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development of any Lot within the Properties. The Owner whose plans are approved shall defend, indemnify and hold the Committee and the Board, and the members thereof, harmless from any and all liability arising out of such approval. No Owner may make or cause any alteration which would adversely affect the structural integrity of any building or which would impair the effectiveness of sound control between Residences.

(e) Restrictions. Except for the Association and its authorized agents, no person, persons, entity or entities shall commit any of the acts set forth below without the prior written approval of the Board of Directors hereinafter named:

(1) Alter modify, add to, delete or in any other way change any building, fence, patio, balcony, or other structure;

(2) Install, erect, attach, apply, paste, hinge, screw, nail, build or construct any lighting, shades, screens, awnings, patio covers, decorations, fences, make any changes in or otherwise alter whatsoever, the exterior of any building, fence, balcony or other structure;

(3) Install, construct or build any sidewalks, slabs, walkways, curbs, gutters, patios, porches, driveways, fences, lighting, decorations, radio or television broadcasting devices or other structures of any kind upon the Common Area.

(f) Non-Waiver. Approval of any application or alteration shall not be deemed a waiver of any right to deny approval of any similar application or alteration, nor shall any pre-existing deviation from Architectural Standards be considered an approved precedent.

Section 8.02. Common Area. No improvement, excavation or work which in any way alters any Common Area from its natural or existing state shall be made or done except upon strict compliance with, and within the restrictions and limitations of, the following provisions of this Section.

(a) No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area.

(b) The Association may from time to time:

(1) Reconstruct, replace, or refinish any Common Facility or other improvement or portion thereof upon the Common Area in accordance with the original design, finish or standard of construction of such improvement of such Common Area which was approved by the governmental entity having jurisdiction.

(2) Construct, reconstruct, replace, refinish any road improvement or surface upon any portion of Common Area designated on a map as a private road or parking area.

(3) Replace trees or other vegetation and plant trees, shrubs and ground cover upon any portion of Common Area.

(4) Place and maintain upon the Common Area such signs as the Association may deem necessary for the identification of the development and of roads, the regulation of traffic, including parking, the regulation and use of Common Area and Common Facilities and for the health, welfare and safety of Owners, tenants and guests. Any such signs to be placed within the street area shall be subject to City approval.

(c) If the Board determines that a new capital improvement project should be commenced, the Board may appoint a Technical Committee to assist in the planning and implementation of the project. The Technical Committee, if appointed, shall consist of two or more Members of the Association. If so appointed, the Technical Committee shall evaluate the feasibility of the proposed project and report to the Board. If the Board elects to proceed with the capital improvement project, with or without a Technical Committee report, it shall submit proposed plans for the project to the Architectural Committee. The proposed capital improvement project must be approved by the Architectural Committee. If the Architectural Committee approves the capital

improvement project, and the cost of the project will exceed ten percent (10%) of the budgeted gross expenses of the Association for that year the Board shall submit the capital improvement project to the membership for approval. For purposes of this Section 8.02(c), "cost of the project" includes costs of design, permits, legal and consulting expenses, costs of construction and other actual and anticipated expenses of the capital improvement project including a reasonable contingency. Capital improvement projects requiring membership approval and Special Assessments to fund such capital improvements must be approved by not less than fifty-one percent (51%) of the entire membership of the Association, excluding those Members whose voting rights have been suspended in accordance with this Declaration. If the capital improvement and Special Assessment are approved by the membership, the Board shall levy a Special Assessment, and may commence construction of the capital improvement after such time as the Board has collected not less than seventy-five percent (75%) of the principal amount of the Special Assessment. The Board may, but shall not be obligated to, retain one or more consultants such as architects, engineers and/or construction managers to assist in the planning and supervision of the capital improvement project. Any excess proceeds of the Special Assessment, following completion of the capital improvement project, shall be placed in the reserve fund, unless otherwise specified by the membership vote approving the capital improvement project. As used in this Section 8.02(c) the term "capital improvement" means the construction or implementation of new facilities, features or elements to the Properties, excluding the replacement of existing facilities, features or elements of the Residences or Common Area. This Section 8.02(c) does not apply to the expenditure of any funds accumulated in a reserve fund for capital replacement of components of existing buildings or structures to be maintained, repaired or replaced by the Association under Article VI, Section 6.01 of this Declaration.

(d) Masts, towers, poles, television and radio antennas, including satellite dishes, are subject to the provisions of Article IX, Section 9.15 of this Declaration.

Section 8.03. Enforcement of Architectural Restrictions. If an Owner makes an improvement, addition or change to the exterior or structure of the Residence without approval from the Board of Directors, the Association may direct that the improvement, addition or change be removed and in the event that the Owner fails to diligently commence action to remove or modify the work within thirty (30) days after receipt of a written demand for removal or modification, the Association may either enter upon the Lot to effect removal or modification, commence alternative dispute resolution under Article XIV, Section 14.08 of this Declaration or commence legal action to compel removal. However, no such entry for removal or modification shall be made unless the affected Owner(s) has been provided notice and an opportunity to be heard in accordance with the procedure set forth in Article XIV, Section 14.06 of this Declaration. The Association may also exercise any of its other applicable remedies under this Declaration, the Bylaws or California law. Any costs and expenses incurred by the Association in the

discharge of its responsibilities hereunder, including reasonable attorneys' fees and costs, fees of consultants and experts, including but not limited to, architects and engineers, may be recovered from the Owner by means of a Special Individual Assessment.

Section 8.04. Variances. The Board of Directors shall be entitled to allow reasonable variances with respect to this Article VIII in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided the following conditions are met:

(a) All requests for variances shall be submitted to the Association in writing. If the Board reserves to itself authority to grant variances, requests shall be submitted to the Association Secretary or Association management agent, as the Board may designate. If variance authority is delegated to the Architectural Committee, submissions shall be made to the Committee Chair.

(b) If the requested variance will necessitate deviation from, or modification of an Architectural Standard that would otherwise apply under this Declaration, the Board or the Architectural Committee must conduct a hearing on the proposed variance after giving at least ten (10) days' prior written notice to all Owners of Residences located in the same building structure as the Residence affected by the variance or located within one hundred feet (100) feet of the Lot to which the variance applies. The Owners receiving notice of the proposed variance shall have thirty (30) days in which to submit to the Board or Committee written comments or objections with respect to the variance. No decision shall be made with respect to the proposed variance until the thirty (30)-day comment period has expired.

(c) The Board or Committee must make a good faith determination that: (i) the requested variance, if granted, will not constitute a material deviation from the overall plan and scheme of development within the Properties or from any restriction contained herein (or the Architectural Standards) or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) the variance relates to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (iii) the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Residence, Common Area or Owner within the Property.

ARTICLE IX

Use of Properties and Restrictions

Use of the Lots, Common Area and other portions of the Properties shall be subject to the following rules and restrictions. In the event that the Association is compelled to expend funds to gain compliance with such rules and restrictions, whether for attorneys' fees or otherwise, the same may be recovered from the offending Owner by means of a Special Individual Assessment.

Section 9.01. Residential Use. The use of the Residence Lots within the Properties is hereby restricted to Residential Use.

No Lot or Lots or any portion thereof in the project shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time sharing agreement, plan, program or arrangement, including, without limitation, any so called "vacation license", "travel club", "extended vacation", or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess the Lot or Lots or any portion thereof in the Properties rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time of twenty-five (25) consecutive calendar days or less. Provided, this Section shall not be construed to limit the personal use of any Lot or any portion thereof in the project by any Lot Owner or the Owner's social or familial guests.

Section 9.02. Lots. Each Lot shall be conveyed as a separately designated and legally described fee simple estate subject to this Declaration. All Lots, whether occupied or unoccupied, and the Residences and other improvements placed thereon, shall at all times be maintained in such a manner as to prevent their becoming unsightly by the reason of the accumulation of rubbish, debris or unsightly growth thereon.

Section 9.03. Common Area.

(a) Generally. The Common Area shall be preserved as open space and used for those recreational purposes originally planned as Common Facilities by the Declarant or subsequently installed by the Association in accordance with this Declaration. Nothing shall be altered, constructed, placed or stored in the Common Area except upon the direction and under the authority of the Association in accordance with Article VIII hereof. Use and enjoyment of Common Area shall at all times be subject to this Declaration, the Bylaws and the Association Rules and other purposes incidental and ancillary to the use of Lots.

(b) Common Area. In addition to the provisions of Section 9.03(a) hereof, but subject to Article II, Section 2.01(b), Article II, Section 2.02(b) and Article III, Section 3.09(a), it is further provided that the use of Common Area shall be available for and

limited to the private use, for aesthetic and recreational purposes, of the Association's resident Members, their families and guests and of the Tenants of nonresident Members and the families and guests of such Tenants.

Section 9.04. Use of the Properties. The use of all Properties shall be limited to those uses, as strictly interpreted, which are specified in this Declaration. Any change in use of the Properties, or any part thereof, shall require the vote or written consent of two-thirds (2/3) of the Members of the Association.

Section 9.05. Prohibition of Noxious Activities. No noxious or offensive activities shall be carried on or conducted upon any Lot or the Common Area, nor shall anything be done on any Lot or the Common Area that shall be or become an unreasonable annoyance or nuisance to the neighborhood, or which may in any way increase the rate of insurance for the Properties, or cause any insurance policy to be canceled, or to cause a refusal to renew the same, or which will impair the structural integrity of any building. Without limiting any of the foregoing, no Owner or Tenant shall permit excessive noise, including, but not limited to, the barking of dogs, the operation of air conditioners, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from any Lot, or the Common Area, which would unreasonably disturb any other Member's enjoyment of the Owner's Lot or the Common Area. Excessive noise levels may be determined according to the ordinances of the City of Santa Clara or other applicable governmental regulation dealing with such matters.

Section 9.06. Temporary Structures. No structure of a temporary character, trailer, mobilehome, camper, motor vehicle, tent, shack, or other outbuilding shall be used on the Common Area at any time as a residence, either temporarily or permanently. Furthermore, no structures shall be built for any purposes on a Lot or the Common Area (other than the original Townhome structure) which are visible from neighboring Lots or above the fences between adjoining Lots.

Section 9.07. Household Pets. The following restrictions regarding the care and maintenance of pets within the Properties shall be observed by each Owner and resident:

(a) A reasonable number of common household pets, such as dogs and cats, may be kept on each Lot, so long as the same are not kept, bred or maintained for commercial purposes. No other animals, livestock, or poultry of any kind shall be kept, bred or raised in any Residence.

(b) Dogs and cats shall only be allowed on the Common Area when they are leashed or otherwise under the supervision and restraint of their Owners. Pet owners shall be responsible for the prompt removal of pet wastes deposited by their pets on the Properties.

(c) No household pet shall be left chained or otherwise tethered in front of a Residence or in the Common Area.

(d) Each person bringing or keeping a pet on the Properties shall be solely responsible for the conduct of their pets. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their household members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet.

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

(f) The Board of Directors shall have the right to establish and enforce additional Association Rules imposing standards for the reasonable control and keeping of household pets in, upon and around the Properties to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Properties by the other Owners and residents.

(g) In addition to the foregoing pet restrictions, all pet control codes and ordinances for the State of California, the City of Santa Clara and the County shall apply at all times within the Properties.

Section 9.08. Signs. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot or the Common Area, nor shall any Lot be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Residence or any resident thereof. Notwithstanding the foregoing, any Owner of a Lot or the Owner's agent may display or have displayed on the Owners' Lot, in accordance with Civil Code Section 712, or on another Owners' Lot with that Owners' consent, a sign which is reasonably located, in plain view of the public, and is of reasonable dimensions and design and not adversely affecting public safety, including traffic safety, advertising the property for sale, lease, or exchange, or advertising directions to the property by the Owner or the Owner's agent. The "for sale" sign shall be promptly removed upon close of escrow and the site restored. A temporary political sign may be placed in a window of the Owner's Residence not more than thirty (30) days prior to the day of the election to which it relates, and shall be completely removed not later than five (5) days after the date of such election. Notwithstanding the preceding time provision, if the Board of Directors finds that any temporary political sign otherwise permitted is an immediate peril or menace to pedestrian or vehicular traffic, or to the health or safety of any person, the Board may cause it to be summarily removed.

Section 9.09. Business Activities. No business activities of any kind whatsoever shall be conducted in any building or in any portion of any Lot except for activities of the Association or the maintenance of buildings by the Association, its successors and assigns, in furtherance of its powers and purposes as set forth herein. Notwithstanding the foregoing, no restrictions contained in this Article IX shall be construed in such a manner as to prohibit any Owner from (a) maintaining a personal library within the Residence; (b) keeping personal business records or accounts therein; (c) handling personal or business telephone calls or correspondence therefrom; or (d) conducting any other activities on the Owner's Lot such as a home office, otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or governmental regulations without the necessity of first obtaining a special use permit or similar specific governmental authorization. Such uses are expressly declared to be customarily incident to the principal residential use and not in violation of any provision of this Article IX. In no event may any business activities be conducted on the Properties which increase vehicular traffic, or create unreasonable noise or nuisances to residents of other Residences or which cause or threaten to cause the increase in any insurance premiums paid by the Association or reduce the availability of any insurance maintained by the Association.

Section 9.10. Garbage and Storage. No rubbish, trash, or garbage shall be allowed to accumulate on Lots and any trash outside the interior walls of a Residence shall be stored entirely within appropriate covered disposal containers maintained in good, clean condition. Owners shall keep disposal containers screened from view except on collection day. No disposal containers, other than those maintained by the Association, shall be allowed in the Common Area except on collection day. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as is often generated upon vacating of premises or during holidays, including Christmas trees) shall be removed from the Properties to a public dump or public trash collection area by the Owner or tenant at the Owner's expense.

No toxic or hazardous materials shall be disposed of within the Properties by dumping in the garbage containers or down the drains, or otherwise. Toxic or hazardous material disposal must be performed outside the Properties in accordance with all applicable statutes, ordinances and regulations.

The Association shall be entitled to impose reasonable fines and penalties for collection of garbage, refuse or materials which is disposed of in any manner inconsistent with this Section. Each Owner shall defend, indemnify and hold harmless the Association, its officers and directors against any liability, loss, damage or cost penalty, including attorney's fees, arising from or relating to the unlawful disposal of hazardous or

toxic materials. Nothing in this Section shall be interpreted so as to preclude the Association from establishing and maintaining within the Properties appropriate storage yards and storage buildings for the maintenance and retention of materials and equipment needed for planting, building, repair, maintenance and preservation of the structures, gardens and other improvements of the Lots and the Common Area.

Section 9.11. Exterior Storage. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on the balconies, patios, porches or other areas in any manner which is visible from the ground level of any neighboring Lot. Further, no clothes washers, clothes dryers, furniture (other than furniture made expressly for outdoor use) refrigerators, freezers or other appliances may be kept, stored or operated on any balcony, patio, porch or other exterior area. Clotheslines shall not be attached to fences.

Section 9.12. Landscaping Maintenance Upon Residence Lots. In addition to maintenance upon the Common Area, the Association shall provide for the care, maintenance and replacement of trees, shrubs and other landscaping located outside of fenced or walled areas. Each Owner shall allow the Association reasonable access to these portions of the Lot for the care and maintenance to be provided by the Association. Any tree, shrub or other landscaping on Lots, including such landscaping in entryways and enclosed patio areas which is visible from another Lot or from the Common Area is subject to the Association Rules and Architectural Standards. Owners shall not allow trees, shrubs or other landscaping in enclosed patio or yard areas to damage or interfere with any building or Common Area component maintained by the Association.

In the event that the need for replacement of trees, shrubs, or other landscaping is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the household, guests or invitees of the Owner of the Lot needing such replacement, the cost of such exterior maintenance may be collected as a Special Individual Assessment. Such an Assessment shall be added, however, only after reasonable notice to the Owner and opportunity for a hearing by the Board.

Section 9.13. Cooperative Maintenance Obligations. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and all exterior wall surfaces and roofs of Residences, including but not limited to, recreation and parking areas and walks, shall be undertaken by the Board of Directors or by its duly delegated representatives and, to the extent necessary or desirable to accomplish such maintenance, individual Owners shall cooperate with the Association and its agents in the prosecution of its work.

Section 9.14. Structural Integrity. No Residence Owner shall undertake any action or work that will impair the structural soundness or integrity of the Owner's Lot or

another Lot or impair any easement or estate, or do any act or allow any condition to exist which will adversely affect the other Residences or their Owners.

Section 9.15. No Alterations or Antennas. In order to insure adequate aesthetic controls and to maintain the general attractive appearance of the Properties, no Owner, resident or tenant shall, at the Owner's expense or otherwise, construct fences, walls, or make any alterations, additions or modifications to or on any part or portion of the Common Area or exterior surfaces of any Residence (including, without limitation, the erection of awnings, exterior window coverings, hangings and the like), or place or maintain any objects, such as masts, towers, poles, or television and radio antennas, or satellite dishes, on or about the exterior of any building within the Properties, except as authorized by the Board. No construction or alteration of improvements may be undertaken on any Lot without approval of the Board pursuant to Article VIII hereof. Notwithstanding Article VIII, Section 8.01 of this Declaration and this Section 9.15, the Board shall authorize the installation of antennas as required by applicable California and federal laws and regulations. Standard height television antennas and satellite dishes of one meter or less in diameter do not require approval by the Board. However, such installations are subject to such reasonable safety rules as may be adopted by the Board.

Section 9.16. Parking and Vehicle Restrictions. The following parking and vehicle restrictions shall apply within the Properties:

(a) All private driveways and carports/garages shall be maintained in a neat and orderly condition.

(b) The residents of a Residence may park no more than two (2) vehicles (as otherwise allowed by this Declaration) on the Properties. The parking of such vehicles is limited to the carport/garage and open park space as assigned by the Board. The occupants of a residence that have a driveway, have the exclusive right to park in the driveway, subject to the Association Rules. Non-resident Owners may not park vehicles on the Properties except temporarily as required for the management and maintenance of their Residence.

(c) Carports/garages and driveways are to be used for the parking of standard four-wheeled passenger vehicles and trucks not to exceed one-half ton capacity and shall not be converted to living quarters or workshops or used for the storage of boats, trailers, campers or recreation vehicles except with the written consent of Association. In no event shall the carport/garage be used in a way which will preclude the parking of one of the Owner's or occupant's customary four-wheeled vehicles within the carport/garage.

(d) All Common Area parking is subject to the Association Rules.

(e) Designated guest parking areas within the Common Area are not to be used, either permanently or temporarily, for the storage of boats, trailers or similar items of personal property, except as provided in Subsection (h) of this Section 9.16. No vehicle may be parked in a Common Area space for more than seventy-two (72) consecutive hours. No vehicle shall be parked or left in the street areas in front of the carports/garages, or along any curb areas, unless the area is specifically marked as a designated parking space.

(f) No motor vehicle shall be constructed, reconstructed or repaired within the Properties and no dilapidated or inoperable vehicle, including vehicles with flat tires or without wheel(s) or an engine, shall be stored on the Properties; provided, however that the provisions of this Section shall not apply to emergency vehicle repairs not to exceed twenty-four (24) hours. Vehicles without license plates or current displayed registration may not be kept on the Properties.

(g) No unlicensed or unregistered vehicles may be kept on the Properties.

(h) Campers, trailers, housetrailers, mobilehomes, motor homes, recreational vehicles, boats, boat trailers, commercial vehicles and trucks in excess of three-quarter ton capacity are not to be parked within the Properties, except for periods not to exceed twenty-four (24) hours for the purpose of loading and unloading. Personal property, other than authorized vehicles, shall not be stored in carports nor in garages if such storage will necessitate or result in the parking of vehicles on streets within the Properties. No unlicensed motor vehicles shall be operated on the Properties.

(i) The Association Rules may regulate vehicle size, weight and type.

(j) The Board or its authorized employees or agents shall have the authority to tow or restrain by use of devices such as the "Denver Boot", at the Owner's expense, any vehicle parked or stored in violation of this Section. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.

(k) Signage. The Association may install a sign at each vehicular entrance to the Properties containing a statement that public parking is prohibited and that all vehicles not authorized to park on the Properties will be removed at the Owner's expense. The sign shall contain the telephone number of the local traffic law enforcement agency and shall not be less than 17 x 22 inches in size with lettering not less than one inch in height.

Section 9.17. Use of Private Streets in Common Area.

(a) Private streets within the Properties shall not be used for recreational purposes, including "joy riding" or racing. Motorcycles, mopeds, and cars shall be allowed on such private streets only for ingress and egress.

(b) All operators of motor vehicles, including motorcycles, within the Properties must possess a valid driver's license.

(c) All provisions of the California Vehicle Code must be honored at all times when operating any motor vehicle within the Properties.

(d) Although all roads within the Properties are subject to the California Vehicle Code, the Association shall have the right to adopt reasonable rules regarding the control and use of roads within the subdivision, vehicles operated thereon and the speed and parking of such vehicles, and is further authorized to delegate the discharge of its rights hereunder to a municipality or other governmental entity or to contract with a private security patrol company for such purposes so long as the private character of the subdivisions roads is not jeopardized by such action.

(e) Use of the sidewalks is subject to the Association Rules.

Section 9.18. Barbecues. There shall be no exterior fires whatsoever except barbecue fires located only upon Lots and contained within receptacles designed for such purpose.

Section 9.19. Sports Apparatus. No fixed basketball standards or fixed sports apparatus shall be attached to any Residence or be erected on a Lot. The use of portable basketball standards and portable sports apparatus are subject to the Association Rules.

Section 9.20. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or construction of a Residence or appurtenant structures within the Properties or authorized maintenance of the Common Area. No appliances, machinery or equipment may be maintained, stored or used outside a Residence.

Section 9.21. Visitors. Each Owner shall be accountable to the remaining Owners, their families, visitors, guests and invitees, for the conduct and behavior of the household members and guests residing in or visiting the Owner's Residence and for any property damage caused by such persons.

Section 9.22. Compliance With Local Laws And Activities Affecting Insurance. Subject to rights of reasonable contest, nothing shall be done or kept on any

Lot or within the Common Area which will increase the rate of insurance relating thereto without the prior written consent of the Association and no Owner shall permit anything to be done or kept on the Owner's Lot or the Common Area which would result in the cancellation of insurance on any Residence or any part of the Common Area or which would be in violation of any applicable statute, ordinance, law or administrative ruling or regulation.

Section 9.23. Restriction on Further Subdivision and Severability. No Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof. No Owner of a Lot within the Properties shall be entitled to sever that Lot from the Common Area portions of the Properties. No easement or other interest in a Lot shall be given without the prior written approval of the Board of Directors.

Section 9.24. Diseases and Insects. No Owner shall permit any thing or condition to exist upon the Owner's Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

Section 9.25. Window Coverings. Windows can be covered only by drapes, shutters, blinds or shades and cannot be painted or covered by foil, cardboard, reflective films, bed sheets, towels or other similar materials.

Section 9.26. Flags. Notwithstanding the provisions of this Declaration, including Article VIII, Section 8.01, an Owner may display the flag of the United States on the Owner's Lot, subject to the Association Rules required for the protection of the public health or safety. For purposes of this Section 9.27, "display of the flag of the United States" means a flag of the United States made of fabric, cloth or paper displayed from a staff or pole or in a window, and such display is authorized only to the extent permitted by California Civil Code Section 1353.5 or any successor statute thereto.

Section 9.27. Variances. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article IX, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration.

ARTICLE X

Easements

Section 10.01. Encroachment Easements. Each Lot as the dominant tenement shall have an easement over adjoining Lots and Common Area as the servient tenements for the purpose of accommodating any encroachment due to foundations, exterior wall, windows, eaves, roof overhangs, chimneys and fences or walls which are built in accordance with the original design, plans and specifications or due to engineering errors, errors or adjustments in original construction, settlement or shifting of the building, or similar causes. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the intentional conduct of said Owner or Owners other than adjustments in the original construction. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each adjoining Lot agree that minor encroachments over adjoining Lots and Common Area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. In the event that an error in engineering, design or construction results in an encroachment of a building into the Common Area, or into or onto an adjoining Lot, or into a required setback area, a correcting modification may be made in the Map. The Association shall also execute the certificate of correction. The Board of Directors may, by vote or written approval of a majority of the directors, authorize the execution of the certificate of correction.

Section 10.02. Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and any Lot to perform the duties of maintenance and repair of the Residences or Common Area provided for herein. The right of the Association to enter the interior of a Residence is subject to Section 7.02(e) and Section 8.03 of this Declaration.

Section 10.03. Boundary Changes. An easement shall exist for use and maintenance of Common Area over any portion of a Lot which, because of a change in the boundary of a private structure, including a fence, wall or patio, at the time of original construction, lies between that boundary and a Lot line abutting the Common Area.

Section 10.04. Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Properties for ingress, egress, installation, replacing, repairing and maintaining all utilities on the Properties, including but not limited to water, sewers, gas, telephones, drainage and electricity, cable television and a master television antenna system, if any. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Properties. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or

relocated on said Properties except as initially constructed or thereafter approved by the Association's Board of Directors. The easements provided for in this Section 10.04 shall in no way affect any other recorded easement on the Properties.

Section 10.05. Side Yard Easements.

(a) Easements. In all cases where a structural wall constituting a portion of a single residence, or a structural wall constituting a common wall for two residences, is located upon the dividing line between adjacent Lots, the Owners of said adjoining Lots shall have reciprocal mutual nonexclusive easements for access to and maintenance of said wall, the reconstruction of said wall in the event of the partial or total destruction of the same, drainage associated with said wall or the residence of which said wall is a part, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the residence or residences on said Lot or Lots. The Owner of a Lot having a structural wall situated on the boundary line between the Owner's Lot and the adjoining Lot shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining Lot, and the Owner of the adjoining Lot upon which such a wall is situated shall not attach anything to the outside of said wall without (in each case) the consent and permission of the Owner of the adjoining Lot upon which the residence of which said wall is a part is situated.

(b) Alternative Dispute Resolution. In the event of any dispute arising concerning the provisions of this section, the matter shall be submitted to alternative dispute resolution as provided in Article XIV, Section 14.08 of this Declaration.

Section 10.06. Other Easements. Each Lot and its Owner and the Association, as the case may be, is declared to be subject to all easements, dedications, and rights-of-way granted or reserved in, on, over, and under the Property and each Lot as shown on the Map.

ARTICLE XI

Insurance

Section 11.01. Liability Insurance. To the extent such insurance is reasonably obtainable, the Association shall obtain and maintain comprehensive public liability insurance insuring the Association, and the Owners and occupants of Lots, and their respective household members, guests, invitees, and the agents and employees of each,

against any liability incident to the ownership or use of the Common Area and any other Association owned or maintained real or personal property, and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than Three Million Dollars ($3,000,000) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against liability or risk customarily covered with respect to projects similar to the Properties in construction, location, and use.

Section 11.02. Fire and Extended Coverage Insurance. The Association also shall obtain and maintain a master or blanket policy of hazard insurance for the full insurable value (based on current replacement cost) of all of the Common Area improvements and Residences within the Properties. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to institutional mortgagees. If more than one institutional mortgagee has a loan of record against the Properties, or any part thereof, the policy and endorsements shall meet the standards of the various institutional mortgagees represented in the Properties. The policy shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement or a contingent liability from operation of building laws endorsements or their equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage and a special form endorsement. The policy shall be in the amounts as shall be determined by the Board. The policy shall name as insured the Association, the Residence Owners and all institutional mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee described in Section 11.05 below. Should the Board, despite its reasonable efforts to do so, be unable to obtain insurance coverage meeting all of the specifications set forth above, it shall observe such specifications as closely as possible, and where forms of coverage or insuring agreement specified above are unavailable, the Board shall substitute available forms of coverage and insuring agreements which in its judgment are the nearest equivalent to those specified.

Section 11.03. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

Section 11.04. Individual Insurance. Except as provided in this Section, no Residence Owner can separately insure the Owner's Residence or any part of it against loss by fire or other casualty covered by an insurance carried under Section 11.02 of this Article XI. If any Residence Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 11.02 that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance, and the Owner will be liable to the Association to the extent of any such diminution. The Association recommends that Owners continuously maintain personal

liability insurance. As the Association insurance does not insure the Owner's household furniture and other personal property nor untenantability of premises nor damage assessments, the Association recommends that Owners secure adequate insurance coverage therefor. The Association further recommends that Owners continuously maintain loss assessment coverage including earthquake loss assessment coverage.

Section 11.05. Trustee. All insurance proceeds payable under Section 11.02 of this Article XI, may, in the discretion of the Board of Directors, be paid to a trustee, to be held and expended for the benefit of the Owners, mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank in Santa Clara County that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Board shall have the duty to contract for such work as provided for in this Declaration.

Section 11.06. Demolition and Flood Insurance. The Board may purchase and maintain demolition insurance in adequate amounts to cover demolition in case of total or partial destruction of insured structures and a decision not to rebuild, and a blanket policy of flood insurance.

Section 11.07. Worker's Compensation. The Board shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association.

Section 11.08. Fidelity Bonds. The Board shall purchase and maintain fidelity bonds or insurance covering all officers, directors and employees of the Association handling or responsible for Association funds.

Section 11.09. Director and Officer Liability Insurance. To the extent insurance is available, the Association shall purchase and maintain insurance in an amount not less than Three Million Dollars ($3,000,000) on behalf of any Director, Officer, or Member of a Committee of the Association (collectively the "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, regardless of whether the Association would have the power to indemnify the agent against such liability under applicable law.

Section 11.10. Earthquake and Other Insurance. The Board may, in its discretion, purchase earthquake insurance and/or other insurance with such coverages and in such amounts as the Board may deem prudent from time to time, including, by way of example and not of limitation, insurance on personal property owned by the Association.

Section 11.11 Deductible. Policies purchased by the Board may provide for a deductible amount from the coverage thereof, as determined by the Board in its

reasonable discretion. In the event of any loss which relates in part to insurable portions of a Residence and in part to the Common Area, the Board shall apportion the deductible amount directly proportional to the amount of such loss related to such Residence and the amount of the loss related to the Common Area and Facilities. Where such loss is solely to a Residence, the deductible amount shall be borne solely by the Residence Owner to the extent the loss affects components that the Owner is responsible to maintain and repair under Article VI, Section 6.02 of this Declaration, and by the Association to the extent the loss affects components that the Association is responsible to maintain and repair under Article VI, Section 6.01 of this Declaration. Where such loss is solely to the Common Area, the deductible amount shall be borne from the common funds. However, if any event of loss is caused by the intentional or negligent act of any Owner, the Owner's agents, tenants or guests, such Owner shall be solely responsible for the amount of such loss. Provided further, that in the event of loss caused directly or indirectly by an earthquake, the deductible shall be borne first by the Owner whose residence sustains damage, up to a sum equal to six (6) times the amount of the current monthly installment of the Regular Assessment, and then by all Association members equally. The Association shall levy a Special Assessment against all Owners (but without the consent or approval of Owners, despite any contrary provisions of this Declaration) to fund the amount of the uninsured loss to the Common Area, or the amount of the earthquake insurance deductible applicable to any policy of earthquake insurance maintained by the Association, if the loss to any Residence exceeds six (6) times the current monthly installment of the regular assessment.

Section 11.12. Owner's Insurance. An Owner may carry whatever personal liability and personal property damage liability insurance with respect to the Owner's Residence that the Owner desires. However, the Association recommends that each Owner carry an "HO-6" or equivalent form of policy providing coverage for the Owner's personal property, liability insurance related to the Owner's Lot, and loss assessment coverage.

Section 11.13. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 11.01, 11.02, 11.06 and 11.10 of this Article XI. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Section 11.14. Annual Insurance Review. The Board shall at least annually determine whether the amounts and types of insurance obtained provide adequate coverage in light of increased construction costs, inflation, practice in the area in which the Properties are located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under the existing policies are necessary or desirable to protect the interests of the Owners and of the Association. If the

Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 11.15. Insurance Disclosures. The Association shall provide the following insurance disclosures to the Members.

(a) A summary of the Association's property, general liability, and earthquake and flood insurance policies, which shall be distributed within sixty (60) days preceding the beginning of the Association's fiscal year, that includes all of the following information about each policy:

(1) The name of the insurer.

(2) The type of insurance.

(3) The policy limits of the insurance.

(4) The amount of deductibles, if any.

(b) The Association shall, as soon as reasonably practical, notify its Members by first-class mail if any of the policies described in Subparagraph (a) have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits, or an increase in deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described in Subparagraph (a), the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

(c) To the extent that any of the information required to be disclosed pursuant to Subparagraph (a) is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all of its Members.

(d) The summary distributed pursuant to Subparagraph (a) shall contain, in at least 10-point boldface type, the following statement:

> "This summary of the association's policies of insurance provides only certain information, as required by subdivision (e) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies.

Although the association maintains the policies of insurance specified in this summary, the association's policies of insurance may not cover your property, including personal property, or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

ARTICLE XII

Damage or Destruction

Section 12.01. Damage and Destruction Affecting the Common Area or Two or More Lots.

(a) If any portion of the Common Area or two or more Lots are damaged or destroyed by fire or other casualty, the Board shall determine if and how it is to be restored, unless the cost of restoration exceeds One Hundred Thousand Dollars ($100,000) and insurance proceeds with respect to the loss will cover less than ninety percent (90%) of the total cost of restoration.

(b) If the cost of restoration is in excess of One Hundred Thousand Dollars ($100,000) and the insurance proceeds will cover less than ninety percent (90%) of the costs, then the Board shall obtain firm bids (including a performance bond premium) from two or more responsible contractors to rebuild the damaged area substantially in accordance with its original condition. As soon as the Board has obtained bids, it shall call a special meeting of those Members whose lots were damaged or destroyed to consider the bids. At such a meeting, these Members may, by vote of fifty-one percent (51%) of the total voting power entitled to vote thereat, elect to reject all of such bids. However, failure to reject all such bids shall authorize the Board to accept the bid it considers most favorable.

(c) If all such original bids are rejected, the Board may prepare and present, to the Members whose Lots were damaged or destroyed, various alternative plans for repair and reconstruction. Before presenting any new plans to the Members, the Board shall review the various alternative plans and make recommendations. Then using the most acceptable plans, the Board shall obtain firm bids (including a performance bond premium) from two or more responsible contractors to perform the work or repair or reconstruction in accordance with each such alternative plan.

(d) If a bid is accepted, under either (b) or (c) above, the Board shall levy a Special Reconstruction Assessment against the Members whose Lots were damaged or destroyed to make up any deficiency between the total insurance proceeds and the contract price for such repair or rebuilding, except to the extent otherwise provided by Article XI, Section 11.11 of this Declaration; and such assessments, and all insurance proceeds whether or not subject to liens of mortgagees, shall be paid to the Association to be used for such rebuilding. In the case of such damage to the Common Area, all members shall be subject to the Special Reconstruction Assessment.

(e) All assessments and insurance proceeds shall be paid to a commercial bank or trust company designated by the Board of Directors of the Association to be held for the benefit of the Owners of the damaged structures and the Mortgagees, as their interest

shall appear. If such proceeds are paid by check or draft, the bank or trust company so designated shall be named in such check or draft as the payee, as trustee.

(f) If any Member fails to pay any Special Reconstruction Assessment levied hereunder within thirty (30) days after the levy thereof, the Board shall have the power to borrow the amount needed from the reserve funds to make up the deficiency. Any such money borrowed is to be restored to the reserve funds on collection of the Special Reconstruction Assessment from the delinquent Member according to the lien procedure described in Article V hereof. When adequate funds are available, the Board shall let the contract to the successful bidder.

(g) If no such bid is accepted, or if the Board has determined that such areas are not to be restored, then the Board shall use any insurance proceeds to demolish and remove all damaged or destroyed structures or improvements from said area and level and landscape the site thereof. In the event that all of said insurance proceeds are not required to perform the work, the excess not so required shall be deposited in the maintenance fund. In the event the insurance proceeds are not sufficient to accomplish such demolition and removal and site finishing, then the Board shall levy a Special Reconstruction Assessment to make up the deficiency according to the procedure described in subparagraph (f) above. In such event, the Association shall purchase the Lot and improvements from the Owner at its fair market value immediately preceding the damage or destruction. (Within a reasonable time following the determination that rebuilding will not occur). The sale shall occur through an escrow in which the expenses of the sale are allocated between buyer and seller, and the rights of lienholders are addressed as though the sale were consensual and customary in Santa Clara County at the time immediately preceding the damage or destruction.

(h) If the cost of any maintenance, repair or replacement of the Common Area is not covered by insurance, and if said damage has resulted from the negligence or willfulness of an Owner, an Owner's guest or an Owner's Lessee, the Board may levy a Special Assessment applicable to that Lot only, such lien and the obligation of such Owner shall be due and payable in all respects as provided in Article V hereof.

Section 12.02. Damage to or Destruction of Residence.

(a) In the event of damage or destruction by fire or other casualty affecting a single Residence, the Owner or Owners thereof shall be obligated to proceed with all due diligence hereunder, either:

(1) To commence reconstruction within six (6) months after the damage occurs and complete reconstruction within

one (1) year after the damage occurs, unless prevented by causes beyond the Owner's reasonable control, or

(2) With the Board's written approval, clear and level the Lot, removing all wreckage, debris and remains of the building or buildings therefrom and leaving the same in a level, clean condition.

(b) Upon reconstruction, the Residence shall be rebuilt by the Owner substantially in accordance with the original plans and specification therefor; in addition, the exterior appearance thereof shall substantially resemble the appearance in form and color prior to such damage and destruction. Notwithstanding the foregoing, however, any Owner or Owners of such damaged Residence may reconstruct or repair the same in accordance with new or changed plans and specifications by filing an application with the Architectural Committee and receiving written approval from the Board according to Article VIII hereof. The proceeds of any applicable policy of casualty insurance carried by the Association concerning the damage or destruction shall be paid to the Association. The Association shall make the insurance proceeds available to the Owner as and to the extent that the repair or reconstruction is completed. Any deductible applicable to the policy of insurance shall be allocated between the Owner and the Association as provided in Article XI, Section 11.11 of this Declaration.

(c) If the Owner is unable or refuses to rebuild his Residence, and if a majority of the Board Members determines that it would be beneficial to the Association to have this damaged structure replaced, the Board shall have the power to borrow the money needed from the Association funds to rebuild the Residence. On completion of restoration, any such money borrowed is to be returned to the Association funds on collection of a Special Reconstruction Assessment, applicable to that Lot only, and the Owner thereof, according to the lien procedure described in Article V hereof.

ARTICLE XIII

Condemnation

Section 13.01. Sale by Consent. If an action for condemnation of all or a portion of the Common Area is proposed or threatened by any governmental agency having the right of eminent domain, then, after approval by vote or written consent of at least fifty-one percent (51%) of all of the Owners, and with the prior written consent or deemed consent of seventy-five percent (75%) of all institutional first Mortgagees, the Common Area, or a portion of it may be sold and conveyed to the condemning authority by the Association or its designees acting as the attorney-in-fact of all Owners under an

irrevocable power of attorney, which each Owner by accepting a deed to a Lot in the Properties grants to the Board and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. A Mortgagee shall be deemed to have consented to such action if notice is provided by return receipt mail to the Mortgagee's last known address as shown in the Association's records or in the mortgage itself and if the Mortgagee shall fail to object to such action within thirty (30) days thereafter.

Section 13.02. Distribution of Proceeds of Sale. On a sale occurring under Section 13.01 of this Article XIII the proceeds shall be distributed equally to each Owner and their Mortgagees as their respective interests may appear.

Section 13.03. Distribution of Condemnation Award. If the Common Area, or a portion of it, is not sold but is instead taken, the award shall be apportioned among the Owners and their respective Mortgagees by the terms of the judgment of condemnation, and if not so apportioned, then the award shall be distributed equally to each Owner and their Mortgagees as their respective interests may appear.

ARTICLE XIV

Breach and Default

Section 14.01. Remedy at Law Inadequate. Except for the non-payment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration is inadequate. Accordingly, failure of any Owner, tenant, occupant or user of any Lot, or of any portion of the Common Area or Common Facilities, to comply with any provision of this Declaration or any rule, regulation, decision or resolution of the Board of Directors or Bylaws or Articles of Incorporation of the Association, all as may be amended from time to time, may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

Section 14.02. Nuisance. Without limiting the generality of the foregoing, the result of every act or omission whereby any covenant contained in this Declaration or the Bylaws or Association Rules is violated, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 14.03. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner or other party hereto under this Declaration, the Court may award to any party to such action such attorneys' fees and other costs as it may deem just and reasonable.

Section 14.04. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 14.05. Failure Not a Waiver. The failure of any Owner, the Board of Directors or the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 14.06. Suspension, Fines and Enforcement.

(a) Limitations. The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of the Owner's Residence on account of a failure by the Owner to comply with the provisions of the Articles or Bylaws of the Association or this Declaration or of duly-enacted Association Rules except (a) where the loss or forfeiture is the result of the judgment of foreclosure or sale under a power of sale for failure of the Owner to pay assessments levied by the Association, or (b) where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association (including, without limitation, voting rights) or other appropriate discipline (including, without limitation, the imposition of monetary penalties pursuant to the Association Rules as adopted and published by the Board) for failure to comply with the Association Management Documents. However, voting rights may be suspended as provided in Article III, Section 3.01 of the Bylaws.

(b) Complaint. Upon a finding by the Board of a violation of a provision of the Association Management Documents, the Board shall serve a complaint on the Owner who is alleged to have violated, or whose household member(s), tenant(s), guest(s), invitee(s) or agent(s) are alleged to have violated, any such provision. The complaint shall be delivered in the manner prescribed for the delivery of notices in the Article entitled "Notices" of the Declaration and shall contain the following information:

(1) A brief description of the alleged violation and, in the event the correction of the alleged violation requires actions, such as the installation, removal, repair, replacement, reconstruction or maintenance of improvements, the date by which such violation is to be corrected.

(2) The disciplinary and/or corrective action and/or penalties, such as the levying of a Special Individual Assessment or the suspension of voting and other membership rights, which have been imposed by the Board and become effective in the event the hearing is waived. A suspension of voting or other privileges may be imposed for a period of not more than sixty (60) days unless the violation (including the nonpayment of Assessments) continues beyond such period of time, in which event such suspension may be imposed for as long as the violation continues.

(3) Notification that, unless a written request for a hearing signed by the Owner is delivered to the Board within fifteen (15) days after the postmarked mailing of such complaint, such Owner shall be deemed to have accepted the findings of the Board, including without limitation, the date established by the Board for the completion of any corrective work that is required to cure the violation, and has waived the Owner's right to a hearing and the Owner's right to object to the findings of the Board and the disciplinary and/or corrective actions and/or penalties imposed by the Board.

(c) Request for Hearing. Upon timely delivery of a request for hearing from the Owner named in the complaint, the Board shall set a date for a hearing before the Board and shall deliver notice of such hearing to the Owner and to any witnesses designated by the Board or the Owner who are to be present for the purpose of presenting any relevant evidence. Such hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of said written notice to the Owner. Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to the Owner.

(d) Decision of Board. The Board shall deliver its decision and the reasons therefor to the Owner within seven (7) days after the hearing. The disciplinary and/or corrective action and/or penalties determined by the Board shall become effective five (5) days after delivery of the decision and the reasons therefor to the Owner.

(e) Corrective Work. If a violation requiring corrective work continues to exist after the expiration of the time limitation established by the Board for the completion of such corrective work, the Board shall have the right, but not the obligation, to enter upon such Owner's Lot (but not the interior of the Residence) as necessary to accomplish such corrective work. Entry for such purpose may be made after notice to the Owner of not less than fifteen (15) days unless such Owner has agreed to permit earlier entry for such purposes. Unless Owner and the Board otherwise agree, such entry upon such Lot to perform such corrective work shall take place only during daylight hours on any day, Monday through Friday, excluding holidays.

(f) Reimbursement. If the Association pays for all or any portion of any corrective work required to correct a violation, such amount shall be reimbursed by Owner. Notwithstanding the foregoing, as provided in the Declaration, notice and an opportunity to be heard must be given before any item of construction can be altered or demolished.

(g) Exceptions. The provisions of this Section 14.06 shall not apply to the imposition of late charges or interest for the late payment of any assessment nor to the recordation of a lien or foreclosure of a lien in the case of delinquent assessments. Further, nothing in this Section 14.06 shall limit the power of the Board to take immediate action that may be necessary to alleviate an emergency situation.

(h) Schedule of Penalties. The Board shall adopt and distribute to each Member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed. The Board of Directors shall distribute, in like manner, additional schedules of monetary penalties whenever changes to the schedule are adopted.

(i) Except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, the Association may not deny an Owner or occupant physical access to his or her Residence or Lot, either by restricting access through the Common Area to the Owner's Residence or Lot, or by restricting access solely to the Owner's Residence or Lot.

Section 14.07. Violation of Law. Any violation of any state, municipal or local law, or ordinance or regulation pertaining to the ownership, occupation or use of any property within the Properties is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Section 14.08. Alternative Dispute Resolution.

(a) ADR Procedure. Unless the applicable time limitation for commencing the action would run within one hundred twenty (120) days, prior to the filing of a civil

action by either the Association or an Owner solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, other than assessments, not in excess of five thousand dollars ($5,000), related to the enforcement of the Association Management Documents, the parties shall endeavor, as provided herein, to submit their dispute to a form of alternative dispute resolution, such as mediation or arbitration. The form of alternative dispute resolution chosen may be binding or nonbinding at the option of the parties. Any party to such a dispute may initiate this process by serving on another party to the dispute a Request for Resolution. The Request for Resolution shall include (1) a brief description of the dispute between the parties, (2) a request for alternative dispute resolution, and (3) a notice that the party receiving the Request for Resolution is required to respond thereto within thirty (30) days of receipt or it will be deemed rejected. Service of the Request for Resolution shall be in the same manner as prescribed for service in a small claims action as provided in Section 116.340 of the California Code of Civil Procedure. Parties receiving a Request for Resolution shall have thirty (30) days following service of the Request for Resolution to accept or reject alternative dispute resolution and, if not accepted within the thirty (30) day period by a party, shall be deemed rejected by that party. If alternative dispute resolution is accepted by the party upon whom the Request for Resolution is served, the alternative dispute resolution shall be completed within ninety (90) days of receipt of the acceptance by the party initiating the Request for Resolution, unless extended by written stipulations signed by both parties. The costs of the alternative dispute resolution shall be borne by the parties. Any Request for Resolution sent to the Owner shall include a copy of Civil Code Section 1354.

(b) Notice of ADR Procedure. The Board of Directors annually shall provide to the Members of the Association a summary of the provisions of California Civil Code Section 1354, which summary shall include the following language:

> "Failure by any member of the association to comply with the prefiling requirements of Section 1354 of the Civil Code may result in the loss of your rights to sue the association or another member of the association regarding enforcement of the governing documents."

The summary shall be provided either at the time the pro forma budget required by Civil Code Section 1365 is distributed or in the manner specified in Section 5016 of the Corporations Code, covering written notices as part of a newsletter, or other organ regularly sent to the Members.

(c) The exception for disputes related to Association assessments in Section 14.08(a) shall not apply if, in a dispute between the Owner of a Residence and the Association regarding the assessments imposed by the Association, the Owner of the Residence chooses to pay in full to the Association all of the charges listed in Subsections

(1) to (4), inclusive, below, and states by written notice that the amount is paid under protest, and the written notice is mailed by certified mail not more than thirty (30) days from the recording of a notice of delinquent assessment in accordance with Section 1367; and in those instances, the Association shall inform the Owner that the Owner may resolve the dispute through alternative dispute resolution as set forth in Section 1354, civil action, and any other procedures to resolve the dispute that may be available through the Association. The sums required to be so paid are:

(1) The amount of the assessment in dispute.

(2) Late charges.

(3) Interest.

(4) All fees and costs associated with the preparation and filing of a notice of delinquent assessment, including all mailing costs, and including attorney's fees not to exceed four hundred twenty-five dollars ($425).

The right of any Owner of a separate interest to utilize alternative dispute resolution under this Section may not be exercised more than two (2) times in any single calendar year, and not more than three (3) times within any five (5) calendar years. Nothing in this Section shall preclude any Owner of a Residence and the Association, upon mutual agreement, from entering into alternative dispute resolution for a number of times in excess of the limits set forth in this Section. The Owner of a separate interest may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Association on the total amount paid under Subsections (1) to (4), inclusive, of this Section 14.08(c) if it is determined through alternative dispute resolution that the assessment levied by the Association was not correctly levied.

(d) Conformance with Statute. The provisions of this Section 14.08 conform with California Civil Code Sections 1354 and 1366.3. In the event said statute is amended, such amendments and any successor statute or statutes relating to the enforcement of covenants and restrictions in the Declaration shall be deemed incorporated by reference into this Declaration.

ARTICLE XV

Amendment of Declaration

Section 15.01. Amendment.

(a) Amendment In General. Except as otherwise provided in Section 16.03 of Article XVI of this Declaration, this Declaration may be amended or revoked in any respect by the affirmative vote or assent or by written ballot of the holders of not less than twenty-five percent (25%) of the voting power of the Members.

(b) Effective Date of Amendment. The amendment shall be effective upon the recordation in the Office of the Recorder of Santa Clara County of an instrument setting forth the terms thereof, duly certified and executed by the President and Secretary of the Association. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or mortgage recorded prior to the recordation of such amendment.

Section 15.02. Control if Amendment Provisions Conflict With Mortgagee Protection or Other Provisions. To the extent any provisions of this Article XV conflict with the provisions of Article XVI or any other provisions of this Declaration, the provisions of Article XVI or the other provisions shall control.

Section 15.03. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

Section 15.04. Provision That Amendments Conform With Mortgagee Requirements. It is the intent of the Association that this Declaration and the Articles and Bylaws of the Association, and the Properties in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any mortgage of a Lot in the Properties by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration, the Veterans Administration and the California Department of Veterans Affairs. The Association and each Owner shall take any action or shall adopt any resolutions required by the Association or any Mortgagee to conform this Declaration or the Properties to the requirements of any of these entities or agencies.

ARTICLE XVI

Provisions to Satisfy Lender Requirements

Section 16.01. Mortgage Permitted. Any Owner may encumber the Owner's Lot with a Mortgage.

Section 16.02. Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first

Mortgage that encumbers all or a portion of the Project, or any Lot, made in good faith and for value; and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such first Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. If any Lot is encumbered by a first Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in the Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the Mortgage. On foreclosure of the first Mortgage, the lien for assessments or the installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Lot free of the lien for assessments or installments that have accrued up to the time of the foreclosure sale. On taking title to the Lot at foreclosure of the first Mortgage, the foreclosure-purchaser shall be obligated to pay only assessments or other charges levied or assessed by the Association that became due or payable on or after the foreclosure-purchaser acquired title to the Lot, except for assessment liens recorded prior to the Mortgage. The subsequently levied assessments or other charges may include previously unpaid assessments, provided all Owners including the foreclosure-purchaser and the foreclosure purchaser's successors and assigns are required to pay their proportionate share as provided in this clause.

Section 16.03. Restriction on Certain Changes. Unless at least sixty-seven percent (67%) of the total voting power or at least sixty-seven percent (67%) of all first Mortgagees of Lots have given their prior written approval, neither the Association nor the Owners shall be entitled:

(a) By act or omission to seek to abandon or terminate the project, partition, subdivide, encumber, sell, or transfer the Common Area or property owned directly or indirectly by the Association. However, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association shall not be deemed a transfer within the meaning of this clause.

(b) To change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner.

(c) By act or omission to change, waive, or abandon the provisions of this Declaration, or the enforcement of them, pertaining to architectural design or control or the exterior appearance of Lot structures, the exterior maintenance of Lot structures, the maintenance of the Common Area walks or common fences and driveways, or the upkeep of lawns and plantings within the Property.

(d) To fail to maintain fire and extended coverage insurance on the Residences insurable Association property, including any Common Area improvements, on a current

replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

(e) To use hazard insurance proceeds for losses to any Association property, including Common Area improvements, for other than the repair, replacement, or reconstruction of such property.

A Mortgagee shall be deemed to have consented to such action if notice is provided by return receipt mail to the Mortgagee's last known address as shown in the Association's records or in the mortgage itself and if the Mortgagee shall fail to object to such action within thirty (30) days thereafter.

Section 16.04. Mortgagee's Right to Examine Books and Records. Institutional first Mortgagees shall have the right to examine current copies of the Declaration, Bylaws, Articles or other Rules concerning the Properties, and the books and records of the Association and the right to require the submission of financial data concerning the Association, including annual reports, budgets, and operating statements as furnished to the Owners. Such audit and financial statement shall be furnished to such requesting Mortgagee at the Association's reasonable cost of duplication and shall be furnished within a reasonable amount of time following such request. Any holder, insurer or guarantor of a first Mortgage shall be entitled, upon written request, to an audited or reviewed financial statement for the immediately preceding fiscal year, at the Association's reasonable cost of duplication. Such statement shall be furnished within a reasonable time following such request.

Section 16.05. Priority in Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of institutional first Mortgagees of Residences pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Lots or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the development is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected institutional first Mortgagees, naming the Mortgagees as their interests may appear in the Official Records of the Santa Clara County Recorder prior to the related loss.

Section 16.06. Status of Amenities. All amenities (such as parking, recreation, and service areas) and Common Area shall be available for use by Owners, their tenants and guests, as set forth in this Declaration, and all such amenities with respect to which Regular or Special Assessments for maintenance or other uses may be levied shall constitute Common Area. All such amenities shall be owned by the Association free of

encumbrances except for any easements granted for public utilities or for other public purposes consistent with the intended use of such property by the Owners, their tenants and guests or by the Association.

Section 16.07. Payments by Mortgagees. Mortgagees of Lots may, jointly or severally, pay taxes or other charges which are in default and which may or have become a charge against 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 Common Area improvements or other insured property of the Association provided that such Mortgagee(s) has given ten (10) days written notice to the Association prior to the making of such payment(s) and the Association has failed to pay the same. Upon making any such payments, such Mortgagees shall be owed immediate reimbursement from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and, upon request of any Mortgagee, the Association shall execute and deliver to such Mortgagee a separate written agreement embodying this provision.

Section 16.08. Effect of Breach of Declaration on Mortgagee.

(a) Lien Not Invalidated. No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith and for value; but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

(b) Mortgagee Need Not Cure Breach. Any Mortgagee who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is noncurable or of a type that is not practical or feasible to cure.

Section 16.09. Status of Loan to Facilitate Resale. Any first Mortgage given to secure a loan to facilitate the resale of a Lot after acquisition by foreclosure, or by a deed in lieu of foreclosure, or by an assignment in lieu of foreclosure, shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of mortgages under this Declaration.

Section 16.10. Right to Appear at Meetings. Because of its financial interest in the Properties, any Mortgagee may appear (but cannot vote) at meetings of Owners or of the Board (except the Mortgagee may not attend executive Board meetings) to draw attention to violations of this Declaration that have not been corrected or that have been made the subject of remedial proceedings or assessments.

Section 16.11. Right to Furnish Information. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

Section 16.12. Notice of Action. Upon written request to the Association, identifying the name and address of the Eligible Mortgage Holder or Eligible Insurer or Guarantor, and the Lot number or address, such Eligible Mortgage Holder or Eligible Insurer or Guarantor will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Properties or any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, as applicable; and (b) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 16.13. Right of First Refusal Inapplicable to Mortgagee. No right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey the Owner's Lot shall be granted to the Association without the written consent of any Mortgagee of the Lot.

Section 16.14. Limitation on Term of Management Contract. Any agreement for professional management by an Association Manager shall provide for termination by either party without cause or payment of a termination fee on sixty (60) days' written notice of the same, shall have a maximum contract term of one (1) year, provided that the Association can renew any such contract on a year-to-year basis.

Section 16.15. Control if Mortgagee Protections Conflict With Other Provisions. In the event of any conflict between any of the provisions of this Article XVI and any other provisions of this Declaration, the provisions of this Article XVI shall control.

ARTICLE XVII

Notices

Section 17.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner:	To the street address of the Owner's Lot or to such other address as the Owner may from time to time designate in writing to the Association.

If to the Association:	At such address as the Board may, from time to time, designate by resolution.
If to a Mortgagee:	To the last known address of the Mortgagee as shown in the Official Records of Santa Clara County or as specifically designated by the Mortgagee, in written notice to the Association.

Section 17.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-owners of any Lot, to any general partner of a partnership which is the owner of record of the Lot, or to any officer or agent for service of process of a corporation which is the owner of record of the Lot, shall be deemed delivered to all such co-owners, to such partnership, or to such corporation, as the case may be.

Section 17.03. Deposit in U. S. Mails. All notices and demands served by mail shall be by first-class mail, with postage prepaid, and shall be deemed delivered seventy-two (72) hours after deposit in the United States mail in Santa Clara County, California.

ARTICLE XVIII

General Provisions

Section 18.01. Construction and Severability; Singular and Plural; Titles.

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Properties as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural, and the plural the singular, unless the context requires the contrary; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.

(e) Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision of the Declaration shall not constitute a waiver of the right to enforce the provision thereafter.

Section 18.02. No Discriminatory Practices. No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing, or occupancy of the Owner's Lot on the basis of age, race, sex, sexual orientation, marital status, national origin, ancestry, color, religion or source of income. No sale, rental or leasing of a Lot shall be prevented directly or indirectly on the basis of age, race, sex, sexual orientation, marital status, familial status, national origin, ancestry, color, disability, religion or source of income.

Section 18.03. Notification of Sale. Concurrently with the consummation of the sale of any Lot under circumstances where the transferee becomes an Owner of the Lot, or within five (5) business days thereafter, the transferee shall notify the Association in writing of such sale. Such notification shall set forth the name of the transferee and the Owner's Mortgagee and transferor, the common address of the Lot purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Before the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board, or the Association Manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to the transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Association. Notices shall be deemed received seventy-two (72) hours after mailing if mailed to the transferee, or to the transferee's transferor if the Association has received no notice of transfer as above provided.

Section 18.04. Easements Reserved and Granted. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted whether or not this Declaration is referred to in the deed to a Lot.

Section 18.05. No Fixed Term. This Declaration and all amendments hereto shall continue in full force and effect until superseded pursuant to Article XV.

Section 18.06. Conflicts Between Documents. The terms and provisions set forth in this Declaration are not exclusive, as Owners are also subject to the terms and provisions of other Association Management Documents, including the Articles of Incorporation, Bylaws, Association Rules, and Architectural Standards. In the event of a

conflict between any provisions of any of said Association Management Documents with the provisions of any other Association Management Documents, the order of superiority of such documents shall be (a) Articles of Incorporation, (b) Declaration of Covenants, Conditions and Restrictions, (c) Bylaws, (d) Architectural Standards, and (e) Association Rules, and the provisions of any such documents shall be superseded by the provisions of the document shown above to be superior to such document to the extent of such conflict.

Dated: _____, 2004

Primavera Homeowners Association

By_____

(President)

By_____

(Secretary)

o:\users\kathy\govinst\primavra.ccr\December 1, 2006

EXHIBIT "A"

All that certain real property as shown on the Subdivision Map of Tract No. 4971 filed in the Office of the County Recorder of Santa Clara County on June 3, 1971 in Book 284 of Maps at Pages 28, 29 and 30; and Subdivision Map of Tract No. 5352 filed in the Office of the County Recorder of Santa Clara County on June 16, 1976 in Book 373 of Maps at Page 26.

EXHIBIT "B"

PRIMAVERA HOMEOWNERS ASSOCIATION ASSESSMENTS

All Residence Lots of residing and nonresiding Owners shall be assessed each year for the estimated costs attributable to the operation and maintenance of the Common Area and Expenses, including but not limited to the following:

1. Maintenance, management, operation, repair and replacement of all real property and the improvements thereon which the Association is obligated to maintain pursuant to the provisions of this Declaration.

2. Unpaid assessments.

3. Management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees.

4. To the extent not metered or billed to Owners, utilities and services which generally benefit and enhance the value and desirability of the Properties.

5. Premiums on all insurance and fidelity bonds maintained by the Association pursuant to the Declaration (except for fidelity bonds obtained by a management agent for its officers, employees and agents).

6. Reserves for the periodic maintenance, repair and replacement of the improvements maintained by the Association pursuant to this Declaration.

7. Taxes paid by the Association.

8. Discharge of any lien or encumbrance levied against Association property or portions thereof.

9. Security systems or services, if any, installed or maintained by the Association.

10. Other expenses incurred by the Association in connection with the Common Area or the cost of any other item or items designated by the Declaration or Bylaws, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

Officer's Certification of Adoption of
Restated Declaration of Covenants,
Conditions and Restrictions of Primavera Homeowners Association

We, the undersigned, say:

That we are the duly elected and acting President and Secretary, respectively, of Primavera Homeowners Association, a California non-profit mutual benefit corporation; that the Restated Declaration of Covenants, Conditions and Restrictions of Primavera Homeowners Association which amends that certain Declaration of Covenants, Conditions and Restrictions dated October 5, 1971 and recorded on October 6, 1971 in Volume 9534, Pages 70, *et seq.*, File No. 4108229, Official Records of the County Recorder of Santa Clara County, California, as amended by that certain Amendment to Declaration of Covenants, Conditions and Restrictions recorded December 8, 1971 in Book 9619, Page 576, File No. 4151653, and as further amended by that certain Amendment to Declaration of Covenants, Conditions and Restrictions recorded January 27, 1977 in Book C562, Page 485, File No. 5535308 has been duly approved by vote of not less than fifty-two percent (52%) of the Lot Owners within Tract No. 4971 filed in the Office of the County Recorder of Santa Clara County on June 3, 1971 in Book 284 of Maps at Pages 28, 29 and 30; and Subdivision Map of Tract No. 5352 filed in the Office of the County Recorder of Santa Clara County on June 16, 1976 in Book 373 of Maps at Page 26, pursuant to and as required by Article XIII, Section 3 of said Declaration.

That this Certification is made pursuant to Section 1355 and 1356 of the Civil Code of the State of California, and is to be recorded together with the Restated Declaration of Covenants, Conditions and Restrictions of Primavera Homeowners Association and the Order of the Santa Clara County Superior Court filed March 1, 2004 as Case No. 1 04 CV013440 attached hereto as Exhibit "1" and incorporated herein by reference, in the records of the County Recorder of Santa Clara County, the County in which said common interest subdivision is located.

We declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

President

_____

Secretary

State of California)

) ss
County of Santa Clara)

On _____, 2004 before me, the undersigned Notary Public, personally appeared _____ and _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

Notary Public
State of California

[seal]