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Parkview Recreation Association, Inc.
c/o Bay West Property Management
2412 Polk Street
San Francisco, CA 94109

Marin County Assessor-Recorder

County of

Marin

JOAN C. THAYER

Assessor-Recorder

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Declaration of Covenants, Conditions and Restrictions of PARKVIEW RECREATION ASSOCIATION, INC. (As Amended and Consolidated in 2009)

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
PARKVIEW RECREATION ASSOCIATION, INC.
(As Amended and Consolidated in 2009)©**

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
PARKVIEW RECREATION ASSOCIATION, INC.
(As Amended and Consolidated in 2009)©**

This Declaration of Covenants, Conditions and Restrictions of PARKVIEW RECREATION ASSOCIATION, INC. ("**Declaration**" or "**CC&Rs**") is a revised and consolidated version of the following Amended Declarations of Covenants, Conditions and Restrictions which were recorded in the office of the Marin County Recorder:

<u>Applicable Association</u>	<u>Recording Date</u>	<u>Document No.</u>
Parkview Terrace Recreation Association	June 29, 1990	1990-0038456
Parkview Terrace Homeowners Association	September 5, 1990	1990-0052316

The above-referenced Declarations, together with any subsequent amendments are hereinafter referred to as "**Former Declarations**".

RECITALS

1. **Legal Description.** This **Declaration** governs all of the real property and improvements located in the Town of Corte Madera, described as:

Lots 4 through 12 inclusive, as shown on that certain map entitled "Map of a Vertical Subdivision of Lots 4 through 12, Map of Parkview Terrace, Corte Madera, California" filed for record February 7, 1963 in Volume 11 of Maps at page 64 in the office of the County Recorder of the County of Marin, State of California ("the Map").

2. **The Subdivision.** The Parkview Recreation condominium subdivision was created in 1963 at a time the when the condominium form of ownership was being pioneered. Originally there were nine separate condominium associations, one for each of the residential buildings. A tenth association was created to independently manage the pool, meeting room and other improvements located on a parcel separate from the individual residential buildings. The **Building** Associations and the Recreation Association were each governed by separate Bylaws and CC&Rs. Over time, more and more administrative functions were shifted to the Recreation Association which took on a role more similar to an umbrella organization. In 1990, the nine sets of **Building** CC&Rs were consolidated into a single Amended Declaration to better coordinate the functions of the individual associations and unify some of the **Governing Documents**. Eventually the **Building** Associations delegated nearly all administrative and management functions to the Recreation Association. While the Recreation Association eventually functioned more like a conventional condominium association, many practices that evolved were not synchronized with the underlying and outdated **Governing Documents**.

3. **The Property.** The **Property** includes nine residential **Buildings** with a total of 42 **Condominiums**. Eight of these **Buildings** are fourplexes and one is composed of ten living units.

Each **Building** is located on a separate parcel. There is a separate improved parcel with the recreation facilities.

4. **The Association.** Parkview Recreation Association, Inc. governs the nine residential **Buildings**, as well as the **Recreation Common Area** as described on Parcel A on the Map. All **Members** share expenses pertaining to operation of the **Property** as a whole, the individual **Buildings** and the **Recreation Common Area**.

5. **This Amended Declaration.** Operating each **Building** as a separate condominium association has not been efficient or economical. With the approval of **Owners** in the respective **Buildings**, the Parkview Recreation Association Inc. has assumed the administration and management of each **Building** whose owners have approved the merger. Therefore, in 2009 the **Members** caused this **Declaration** to supersede the **Former Declarations**, conform to current methods of operation and/or set forth new and equitable allocations of responsibility to maintain, repair and replace various areas of the **Property**. The provisions of this **Declaration** are intended to enhance and protect the value, enjoyment, safety, desirability and attractiveness of Parkview Terrace Condominiums.

6. **Applicability of Restrictions.** As revised, these covenants, conditions and restrictions shall run with the **Property** and shall be binding on all parties having or acquiring any right, title or interest in any portion of the **Property** in the same manner as the **Former Declarations**, and shall be for the benefit of all **Owners**.¹ [*Also see **Article XIII, Section 13.16***]

ARTICLE I **DEFINITIONS**

Section 1.1. "Articles" means the **Articles** of Incorporation of Parkview Recreation Association, Inc., as amended from time to time.

Section 1.2. "Assessment" means a Regular, Special, Extraordinary Expense or Reimbursement **Assessment** made or assessed against an **Owner** and his or her **Unit** in accordance with the provisions of **Article IV** of this **Declaration**.

Section 1.3. "Association" means PARKVIEW RECREATION ASSOCIATION, INC., a California nonprofit mutual benefit corporation, its successors and assigns.

¹ Contemporaneous with the approval of these **CC&Rs** on December 8, 2009, **Owners** of the following **Building** Associations agreed to merge their unincorporated **Building** Associations into this **Association**: Lots 4 through 10, inclusive, and Lot 12. The remaining **Building** Association (Lot 11) may merge in the future as provided in **CC&R** Section 3.14.

Section 1.4. "Board" or "Board of Directors" means the governing body of the Association.

Section 1.5. "Building" means one of the nine residential buildings, the land and all other improvements on the Lot on which the Building sits.

Section 1.6. "Building Common Area" means with respect to each separate Building, that entire Building except Unit area. Building Common Area for each Building (separately) includes, but shall not be limited to:

Floor substrate, roofs, weatherproofing, foundations, pipes, sewers, storm drainage pipelines, catch basins, shared sanitary sewer lines, cleanouts, flues, chutes, central water heater;

Conduits, wires and such other utility installations to the Unit receptacle or box containing the switch or outlets, bearing walls, columns and girders, to the perimeter interior unfinished surfaces thereof, all regardless of location; and

Parking areas, storage and equipment areas, laundry room and equipment, mail boxes, driveways, exterior stairways, open spaces, planted and landscaped areas, and all other improvements which may be placed upon or located in the Building Common Area.

Section 1.7. "Bylaws" means the Bylaws of the Association, as may be amended from time to time.

Section 1.8. "Common Areas" means collectively the Building Common Area and Recreation Common Area, unless the context indicates otherwise.

Section 1.9. "Condominium" means an individually owned Condominium within a Building, together with the undivided interest in the Building Common Area conveyed in fee to an Owner, and all related easements. See generally California Civil Code section 1351(f).

Section 1.10. "Davis-Stirling Common Interest Development Act" means that set of statutes governing Common Interest Developments which starts with California Civil Code Section 1350 and is also referred to as the Davis-Stirling Act.

Section 1.11. "Declaration" means this restated Declaration and any further revisions or amendments. The term Declaration is interchangeable with the term "Covenants, Conditions and Restrictions" or "CC&Rs".

Section 1.12. "Former Declarations" means collectively the Amended Declarations of Covenants, Conditions and Restrictions (together with any subsequent amendments) which were recorded in the office of the Marin County Recorder as follows:

<u>Applicable Association</u>	<u>Recording Date</u>	<u>Document No.</u>
Parkview Terrace Recreation Association	June 29, 1990	1990-0038456
Parkview Terrace Homeowners Association	September 5, 1990	1990-0052316

Section 1.13. "Governing Documents" means collectively this **Declaration**, the **Bylaws**, **Articles**, rules, and any policies or guidelines approved and adopted by the **Board**, and any amendments to such documents.

Section 1.14. "Lot" means each of the nine **Lots** designated on the Map. Each **Lot** is also referred to herein as a **Building**.

Section 1.15. "Member" means a **Person** who holds membership in the **Association** and is synonymous with the term "**Owner**".

Section 1.16. "Mortgage" means a Deed of Trust, as well as a **Mortgage**.

Section 1.17. "Mortgagee" means a beneficiary (such as a bank) under a **Mortgage** and/or Deed of Trust.

Section 1.18. "Owner" means the **Owner**, whether one or more **Persons** or entities, having an interest in a **Condominium**. If the interest is not recorded in the chain of title, the **Board** may require reasonable evidence of an ownership interest before granting or acknowledging ownership rights or benefits. This includes contract purchasers, but excludes **Persons** having any interest merely as security for the performance of an obligation.

Section 1.19. "Person" means a natural person, corporation, partnership, trustee or other legal entity. This term includes any **Owner**, **Member**, a family member, tenant, resident, guest or invitee.

Section 1.20. "Property" means all of the real property and improvements of the Parkview Recreation Association, Inc. condominium complex and includes all **Buildings** and **Common Areas**.

Section 1.21. "Recreation Common Area" means all real property owned by the Parkview Recreation Association, Inc. for the common use and enjoyment of the **Owners** and includes a swimming pool and recreation room.

Section 1.22. "Restricted Building Common Area" with respect to each **Building** means those portions of the **Building Common Area** which are for the exclusive use of one or more, but fewer than all, of the **Owners** of the **Units** within that **Building**. **Restricted Building Common Area** is a subpart of **Building Common Area** distinguished by different rights and responsibilities from general **Building Common Area**. **Restricted Building Common Area** shall include, but is not limited to, the following components when the component exclusively serves a single **Unit**:

Exterior components such as door steps, stoops, patio slabs, balconies, balcony framing, and balcony planks, water pipes and valves, light fixtures, electrical outlets and switches;

Front doors, door bells, entry light fixtures, patios, door frames, and hardware incident thereto, window frames (which are affixed to the **Building** and surrounding the opening), and gates;

Carports, crawlspaces, attics; and

To the extent not part of the **Unit** itself, fireplace flues, fireboxes (excluding liners or stone panels), utility pipes and lines (including but not limited to telephone, water, waste, electrical, gas, and cable television), wherever located, and any related duct, vent, receptacle or other component within or exclusively serving the **Unit**.

Section 1.23. "Unit" with respect to each **Building** means the separate interest as generally defined in Civil Code section 1351(f). The boundaries of each **Unit** are the interior unfinished surfaces of the perimeter walls, floors (surfaces and subbase) and ceilings bounding the **Unit**, and includes doors and windows (including glass). Each **Unit** includes the airspace encompassed by its boundaries. The **Unit** expressly includes, regardless of location, the following components:

the interior finish materials of walls and ceilings (including textured ceiling material), carpeting, the liners or stone panels of a fireplace box (excluding the flue), floor coverings and related components (excluding the plywood substrate), fixtures, cabinets, interior doors, exterior sliding glass doors, windows, weatherstripping, skylights, screens and appurtenant hardware and locks, light fixtures, toilets, including wax or plastic rings, seals, showers, shower pans, bathtubs, sinks, drains (including p-traps) and drain seals, air conditioning equipment and systems, forced air units, filters, furnaces, heating conduits, ducts, blowers, as well as bathroom and kitchen plumbing fixtures (including the joints where the fixtures attach to pipes), faucets, fans, valves, washers, gaskets, tile, grout, caulking and waterproof elements of any bathroom and kitchen surfaces, including any waterproof elements behind tiles or other finish material. Electrical switches, receptacles, boxes and panels, fuses, circuit breakers, battery operated smoke detectors and similar alarms, utility components, fixtures and extensions thereof and appliances which are located wholly within or around the boundaries of a **Unit** or are recessed in the wall of the **Unit** and accessible from the **Unit**, and which service only that **Unit**, are also part of the **Unit**.

ARTICLE II **PROPERTY RIGHTS**

Section 2.1. Building Common Area Ownership. Each **Owner** has linked (appurtenant) to his or her **Unit**, a fractional interest in the **Building Common Area** of the **Building** in which his or her **Unit** is located, as set forth in the deed to the **Condominium**. Each **Condominium** includes a **Unit** and such undivided interest in the **Building Common Area**. The common interest linked (appurtenant) to each **Unit** is permanent in character and cannot be altered without the unanimous consent of the holders of first **Mortgages** on the **Condominiums** in that **Building**, as expressed in an amended **Declaration**. Each **Owner** may use the **Building Common Area** in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other **Owners** of **Condominiums** within that **Building**, subject to the rights

of each **Owner** in any **Restricted Common Area** linked (appurtenant) to that **Owner's Condominium**.

Section 2.2. Restricted Building Common Areas. With respect to each numbered **Unit** as set forth on the Map, the adjacent patio or balcony and the storage area bearing such **Unit** number is set aside and allocated for the exclusive use of the **Owner** of the **Condominium** to which they are either physically attached or assigned by **Unit** number on the Condominium Plan and are linked (appurtenant) to that **Condominium**.

Section 2.3. Owners' Nonexclusive Right of Use; Association Rights. Every **Owner** has a nonexclusive right of use in and throughout the respective **Building Common Area**, of enjoyment, ingress, egress, and support in, to, and throughout the respective **Building Common Area** and any improvements or facilities on these areas. However, such nonexclusive right of use is subordinate to, and shall not interfere with, exclusive easements over the **Restricted Building Common Area**. Each such nonexclusive right of use is linked (appurtenant) to the respective **Condominium** and shall pass with the title to the **Condominium**. Nonexclusive right of use shall be subject to the provisions set forth in the **Governing Documents**, including the following:

2.3(a) The right of the **Association** to limit the number of guests, and to adopt and enforce the **Association** rules;

2.3(b) The right of the **Association** to assign, rent, license or otherwise designate and control use of any unassigned parking and storage spaces within, and any recreational facilities situated upon the **Recreation Common Area**, and charge reasonable fees for admission and use;

2.3(c) The right of the **Association** or it designees to enter upon any portion of the Property to construct improvements to the **Property**, to make construction upgrades as required by law, and to make repairs, and remedy construction deficiencies, provided that such entry shall not interfere with the use or occupancy of any occupied **Unit** unless authorized by its **Owner**, which authorization shall not be unreasonably withheld;

2.3(d) The right of the **Association**, or its agents, to enter any of the **Units** to perform its obligations and duties under this **Declaration** as more fully set forth in **Article III, Section 3.9**.

Section 2.4. No Partition. Except as provided by California Civil Code section 1359, there shall be no judicial partition of the **Units** or **Common Area** of a **Building**, nor shall any **Person** acquiring an interest in a **Building** or any part seek any judicial partition, provided, however, that if any **Condominium** is owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing in this **Declaration** shall be deemed to prevent a judicial partition as between co-tenants.

Section 2.5. Encroachment Easements.

2.5(a) If any portion of a **Unit** or **Restricted Building Common Area** encroaches on any **Building Common Area** due to minor engineering errors, minor errors in original construction, reconstruction, repair, settlement, shifting, or movement of the **Building**, or any other cause, the owner of the encroachment shall have the right to maintain, repair or replace the encroachment, as long as it exists, and the rights and obligations of **Owners** shall be not altered in any way by said encroachment, settlement or shifting; provided, however, that no right shall be created in favor of an **Owner** or **Owners** if said encroachment occurred due to the conduct (willful or otherwise) of said **Owner(s)** or predecessor **Owners**. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the **Owners** agree that minor encroachments over adjoining **Building Common Area** shall be permitted and that there shall be appropriate rights for the maintenance of said encroachments so long as they shall exist.

2.5(b) Each **Unit** is subject to such encroachments as are contained in the **Building**, whether the same now exist or may be later caused or created in any manner. In interpreting deeds and plans, the then existing physical boundaries of a **Unit**, whether in its original state or reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the **Building** and regardless of minor variance between boundaries shown on the plan or deed, and those of the **Building**.

ARTICLE III
AUTHORITY OF THE ASSOCIATION

The **Board** shall have the power and authority to conduct the business of the **Association**, except as may be limited by the **Governing Documents** or the law, and, where appropriate or necessary, the **Board**, in its sound discretion and for the benefit of all **Owners**, shall generally enforce the provisions of the **Governing Documents** in the manner it deems most appropriate. In addition to those powers and duties set forth in the **Bylaws** or elsewhere in these **CC&Rs**, the **Board** shall also have the following duties and powers:

Section 3.1. Utilities. The **Association** shall procure and pay for water, sewage, garbage, electrical, gas, telephone and other necessary utility service for the **Common Areas** and (to the extent not separately metered or charged) for the **Units**. The **Association** may procure cable, internet, or common satellite service and allocate charges equitably. The **Association** may grant easements across **Common Areas** to permit installation and maintenance of cable, telephone, internet or other similar lines by private companies.

Section 3.2. Common Area Landscape. The **Association** shall procure and pay for gardening and landscaping services, as well as maintaining and cleaning any portion of the **Common Areas**. If economically feasible, the **Board** may install and/or maintain alternative landscaping water sources, such as gray water or a well.

Section 3.3. User Fees. The Association may impose and collect reasonable fees for the use of the Recreation Common Area by Owners.

Section 3.4. Professional Services. As deemed prudent by the Board, the Association may procure and pay for professional services, including legal, management and accounting services.

Section 3.5. Taxes. The Association shall pay (a) from the Building budget, all taxes and assessments, if any, levied or assessed separately against the Building Common Area or (b) from the general budget, such costs attributable to the Recreation Common Area.

Section 3.6. Discharge of Liens. The Association may pay, bond around or otherwise cause the discharge of any lien or encumbrance, including taxes, levied against any Condominium which, in the opinion of the Board, may constitute a lien against the Common Areas. Where one or more Persons are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it. Any costs incurred by the Association by reason of said lien or liens shall be specifically assessed to said Owners as a Reimbursement Assessment.

Section 3.7. Other Obligations of the Board. The Association shall procure and pay for any other goods, materials, supplies, labor, services, painting, maintenance, repairs, structural alterations, improvements, insurance, taxes or assessments which the Board is authorized to secure or pay for pursuant this Declaration or by law, or which is reasonably necessary in the discretion of the Board for the convenient and appropriate operation of the Common Areas.

Section 3.8. Manager. The Association may delegate the daily management duties to a manager or management company, subject to the direction and control of the Board. This includes the authority to hire, as an employee or independent contractor, an "on-site" manager.

Section 3.9. Dedication and Easements. The Association may dedicate any of the Common Areas to an appropriate public authority, provided that any such dedication shall have the unanimous approval of sitting Directors, plus (a) with respect to Recreation Common Area, the assent of a majority of a quorum of all Owners, or (b) with respect to Building Common Area the assent of a majority of Owners within that Building. The Board may grant Common Area easements or licenses to utility companies, communications or similar companies or public entities, so long as the grant in whole or in part benefits the Owners and/or does not significantly interfere with the Owners' use of the Common Area.

Section 3.10. Acquisition and Disposition of Property. The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of personal property in connection with the affairs of the Association.

Section 3.11. Water Management. To address water rationing or other prudent water use management, the Association may require installation of "low flow" devices and may offer reasonable incentives to Owners who install "low flow" toilets or other water saving devices. The

Association may also install flow meters to more fairly pro rate water costs. The **Association** may utilize the services of a flow meter company and cause the separate billing of water actually used by individual **Units**. Flow meter charges which are vendor administered may be levied in addition to the regular **Assessment**. In the event that less than all **Units** have flow meters, an equitable allocation shall be made so **Units** with flow meters are not charged for domestic water use of those **Units** without flow meters.

Section 3.12. Rules.

3.12(a) Rule Making and Policy Making Power. Subject to the provisions set forth in the **Davis-Stirling Act**, including **Member** review, the **Board** may propose, enact, adopt and/or amend rules and/or policies of general application to the **Owners** relating to the use of any part of the **Property** by the **Owners** and other **Persons**, including renters and guests. Such subjects may include parking, recreational vehicle and trailer parking, car washing, storage, trash and garbage disposal, use of recreational facilities, laundry, pets, rental or lease of **Condominiums**, signs, holiday decorations, displays, and/or activities which might adversely affect the **Property** or its appearance or might offend, inconvenience, annoy or endanger the **Owners** or residents. The **Board** may adopt policies to address any omission, ambiguity or conflict in the provisions of the **CC&Rs**. The rules shall not, however, be inconsistent with or materially alter any provision of the **Articles**, **Bylaws** or **Declaration**. In the event of any material conflict in a rule or policy, the provision contained in the **Declaration**, **Bylaws** or **Articles** shall be deemed to prevail.

3.12(b) Breach of Rules and/or Policies. Any breach of the rules and/or policies shall give rise to the rights and remedies set forth in **Article XII**.

Section 3.13. Grant of Exclusive Use of Building Common Area. The grant of exclusive use of a portion of the **Building Common Area** to an **Owner** may be made under the limited circumstances provided for in Civil Code section 1363.07 and this section. The **Owner** must make application to the **Board**, which must include a drawing showing the proposed modification(s) and a full description of the proposed encroachment, including dimensions, materials and surrounding areas, etc. (as specified on the application).

3.13(a) If the **Board** determines that the subject **Building Common Area** is generally inaccessible and is not of general use to the membership at large, then the **Board**, in its sole discretion, may approve such exclusive use. Such areas may include, for example, confined areas (for example, a wall or rafter cavity) within the **Building** and adjacent to the applicant's **Unit** or landscape immediately adjacent to the applicant's **Condominium**. The **Board** may also have similar discretion where the request conforms to other provisions of the above cited statute. Typically, if a grant is made, a license is granted to a **Person** and may have conditions and/or be of limited duration.

3.13(b) If the **Board** finds that the proposed transfer does not comply with the exceptions stated in the above referenced statute and/or this section, then for the **Board** to grant an

exclusive use license or easement, there must also be an affirmative approval by at least a majority of the voting power of the **Owners of Condominiums** within that **Building**.

3.13(c) The **Board** shall impose terms and conditions as are appropriate and beneficial to the **Association**. The terms may include recordation of documentation in the chain of title. Additionally, the **Owner** must accept the burden of management and maintenance of such **Building Common Area** and the **Board** may include the obligation to add the **Association** as an additional insured on **Owner's** liability insurance.

3.13(d) A written record must be kept by the **Owner** and any successor **Owner** of all such requests and approvals. The burden is on the **Owner** to produce written evidence of such approval. If the **Owner** is unable to produce such evidence, there shall be a presumption that no approval was given.

Section 3.14. Mergers and Consolidations. The **Association** may participate in mergers and consolidations with other nonprofit organizations which operate for the same purpose or annex additional residential property, provided that any merger, consolidation or such annexation shall have the approval of the **Board** and assent by vote or written consent of a majority of a quorum of Class A **Members**.

Section 3.15. Recreation Common Area. The **Association** (with at least five (5) merged **Building Associations**) shall have the authority to levy a Recreation Common Area Assessment on all **Members** (whether or not a particular **Building Association** has merged). The **Board** shall establish an annual budget for the pool association and shall divide those costs equally among all **Members**.

ARTICLE IV ASSESSMENTS

Section 4.1. Assessments Generally. Each **Owner**, by acceptance of a deed or other ownership interest, has and continues to covenant and agrees to pay **Assessments** to the **Association**, together with interest, late charges, costs, and legal fees, which shall be a charge on the **Condominium** and may become a continuing lien upon the **Condominium** against which each such **Assessment** is made. Each such **Assessment** and related charges shall also be a joint and several personal obligation of each **Person** who holds an ownership interest in such property at the time the **Assessment** becomes due and payable. All delinquent **Assessments** shall be subject to the provisions of **Article IV, Section 4.4**, below.

4.1(a) Regular Assessments. Each fiscal year, the **Board** shall adopt a budget and establish for each fiscal year an Annual **Assessment** to be allocated among the **Units** as set forth in **Section 4.3** below. The budget shall include expenses pertaining to the **Property** as a whole and a separate portion related only to the **Recreation Common Area** ("Recreation Common Area Assessment" - see **Section 4.2** below). Unless otherwise provided, the Annual **Assessment** shall be payable in twelve (12) equal monthly increments. Such monthly

payments shall be due and payable on the first day of each month and be delinquent if not received by the **Association** by the 15th day of the month.

4.1(b) Special Assessments. Special Assessments shall be allocated proportionately among all **Units** as set forth in **Exhibit A**. Special Assessments may be levied for the purpose of defraying, in whole or in part, actual or estimated revenue shortfalls or such other purposes as the **Board** deems appropriate, subject, of course, to the **Assessment** level increase provisions of **Section 4.4** below. Special Assessments shall be due as set forth in the notice (see **Section 4.4(c)** below).

4.1(c) Extraordinary Expense Assessments. Where the **Board** determines an emergency or other appropriate situation exists as defined by statute, the **Board** may levy an Extraordinary Expense **Assessment**, but only in accordance with Civil Code section 1366 or any superseding provision of the California Civil Code which addresses **Assessments** necessary for extraordinary expenses.

4.1(d) Reimbursement Assessments.

4.1(d)(1) Definition. A Reimbursement **Assessment** is a charge against any **Owner** (and/or tenant) and the **Owner's Condominium**. It may be levied by the **Board** where there is a violation of the **Governing Documents** or misconduct by any **Owner**, or the tenants, guests, agents, employees, licensees, or invitees of an **Owner**. A Reimbursement **Assessment** may also be levied when a condition created or caused by an **Owner** or an **Owner's** predecessor in interest has or will require the **Association** to spend money (including incurring attorneys fees or other costs). It may also be levied if a fine or penalty has been imposed against the **Association** (for example, a government fine), or caused any increase in the **Association** insurance premiums. It may also be levied by mutual agreement between an **Owner** and the **Association**. Additionally, a Reimbursement **Assessment** may be levied against the **Owners** of a **Building** when additional management or other related costs are or will be incurred as a result of those **Owners'** failure and/or refusal to fund or comply with any statutory requirement.

4.1(d)(2) Implementation. Prior to levying a Reimbursement **Assessment**, the **Association** must provide the individual with due process pursuant to **Article XII, Section 12.4** unless the **Owner** agrees otherwise.

4.1(d)(3) Collection. A Reimbursement **Assessment** shall be due and payable to the **Association** when levied or such later time as may be set. When a Reimbursement **Assessment** is levied to repair damage to **Building Common Area** or **Recreation Common Area**, it may be collected in the same manner as a regular **Assessment** except that non-judicial foreclosure only applies if it is to repair damage to **Common Area**.

Section 4.2. Recreation Common Area Assessment. That portion of the **Association** expenses pertaining to the reserves, operation, maintenance, and repair of the recreational

facilities shall be divided equally among all **Owners**. These expenses include, but are not limited to: **Recreation Common Area** electricity, insurance, administrative fees (including management, legal fees, accounting), wading pool, swimming pool, cabana and pool house reserves, maintenance and operating costs, pool furniture, exterior landscaping and irrigation, street lights, perimeter fencing).

Section 4.3. Allocation of Assessments (Excluding Recreation Common Area Assessments). Any claim of error in the method of calculation or amount of **Assessment** must be brought within six (6) months of the date of the asserted error.

4.3(a) Equal - Operating Expenses. That portion of the Annual **Assessment** which is included in the budget for operating expenses (including but not limited to insurance, commonly metered water and utilities, administrative expenses, and refuse collection) shall be allocated equally among the **Units**.

4.3(b) Variable - Reserves and Special Assessments. All Special **Assessments**, as well as that portion of the Annual **Assessment** which is for reserve expenses (including but not limited to exterior painting, roofing, balconies, and patios) shall be allocated among all **Units** according to the percentages set forth on **Exhibit A** which is attached and incorporated herein.

Section 4.4. Assessment Level Increases. If any **Building** within the **Property** has not merged into the **Association**, the **Association** shall operate with two budgets. The following shall apply to each of those budgets:

4.4(a) Approval of Board of Directors. The **Board** may impose a regular **Assessment** up to and including a twenty percent (20%) increase over the aggregate regular **Assessment** levied in the **Association's** preceding fiscal year. In order to exercise this discretionary power to increase regular **Assessments**, the **Association** must have complied with Civil Code section 1365(a). The **Board** may impose special **Assessments** which in the aggregate do not exceed five percent (5%) of the budgeted gross expenses of the **Association** for that fiscal year. The **Board** also has the power to levy an Extraordinary Expense **Assessment** pursuant to **Article IV, Section 4.1(c)**.

4.4(b) Approval of the Owners. **Assessments** may be increased above the amounts set forth in **Section 4.4(a)** above, only with the approval of a majority of a quorum of **Owners** who would be required to pay all or any part of the **Assessment**. For purposes of this section, quorum means more than fifty percent (50+%) of the voting power of the affected **Owners**.

4.4(c) Notice. The **Association** shall provide notice by first-class mail to **Owners** of any special **Assessments** or increase in the regular **Assessment**, not less than thirty (30) days nor more than sixty (60) days prior to the **Assessment** becoming due.

Section 4.5. Enforcement of Assessments.

4.5(a) Delinquency. The **Association** shall adopt and distribute a collection policy which shall provide for the enforcement of **Assessments**, including the provisions set forth below. If an **Assessment** is delinquent, the **Association** may require payment of all of the following:

4.5(a)(1) reasonable costs incurred in collecting the delinquent **Assessment**, including reasonable attorney's fees;

4.5(a)(2) a late charge not exceeding ten percent (10%) of the delinquent **Assessment**;

4.5(a)(3) interest on all sums imposed (including the delinquent **Assessment**, reasonable fees and costs of collection, and reasonable attorney's fees) at an annual interest rate not to exceed twelve percent (12%) commencing thirty (30) days after the **Assessment** becomes due.

4.5(b) Returned Checks and Other Charges. An **Owner** who issues a check to the **Association** which is returned for any reason shall pay a reasonable charge set by the **Association** for processing such check. If the check cannot be negotiated, payment shall be demanded in accordance with California Civil Code section 1719, which is entitled "Treble Damages for Failure to Pay Amount of Dishonored Check." Additionally, **Members** shall reimburse the **Association** for any insufficient funds or other costs incurred in Automated Clearing House (ACH) transactions.

4.5(c) Acceleration of Assessment. If any **Assessment** is delinquent for a period of more than sixty (60) days or an **Owner** is delinquent three (3) or more times for any duration within a twelve (12) month period, the **Association** may declare the entire balance of the annual or other **Assessment** (plus any other outstanding **Assessment**) immediately due and payable in full, together with any other delinquent amounts. Upon acceleration, interest, and a late charge on the full accelerated balance, will accrue.

4.5(d) Lien. The amount of a delinquent **Assessment**, plus any costs of collection, late charges, and interest, shall be a lien on the **Owner's Condominium** from and after the time the **Association** causes to be recorded with the County Recorder of Marin County a Notice of Delinquent Assessment. This lien includes all additional charges and sums which become due and payable after the date of recordation of the Notice of Delinquent Assessment. An **Association** lien shall survive the sale or transfer of a **Condominium**, except in the event of a foreclosure by a senior interest.

4.5(e) Non-judicial Foreclosure. The **Association** has the power to conduct non-judicial foreclosure in order to collect delinquent **Assessments**. Each **Owner** hereby appoints as trustee the **Person** designated by the **Association** as "trustee" in the Notice of Delinquent Assessment, or such substitute trustee as is designated pursuant to Civil Code section 2934a. Additionally, such **Owner** empowers such trustee to enforce the lien and to foreclose the lien

by the private power of sale provided in Civil Code section 1367.1(d), or by judicial foreclosure. Each **Owner** further grants to the trustee the power and authority to sell the **Condominium** of any defaulting **Owner** to the highest bidder to satisfy such lien. Note that a fine may be the subject of a lien and/or judicial foreclosure, but cannot be the basis for a non-judicial foreclosure.

4.5(f) Other Recourse.

4.5(f)(1) The **Association** may bring an action at law against the **Owner** personally obligated to pay the delinquent **Assessments**, and/or foreclose its lien against the **Owner's Condominium** (whether by judicial or non-judicial foreclosure).

4.5(f)(2) Further, the **Association** may exercise any and all legal rights it may also have to cause the collection of delinquent **Assessments**. The **Association**, acting on behalf of the **Owners**, shall have the power to bid for the **Condominium** at the foreclosure sale and to acquire and hold, lease, **Mortgage** and convey the **Condominium**.

Section 4.6. Grantee Liability.

4.6(a) Voluntary Conveyance. Where an **Owner** voluntarily conveys part or all of that **Owner's** interest in a **Condominium**, the **Person** acquiring the interest takes subject to all **Assessments** and charges (delinquent or not) outstanding against the **Condominium** at the time of the conveyance. Upon request of an **Owner**, the **Association** shall provide a true statement in writing from an authorized representative of the **Association** as to any **Assessments** and/or other charges levied upon the **Owner's Condominium** which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the **Owner's Condominium**.

4.6(b) Conveyance by Foreclosure. In the event of a foreclosure of a first **Mortgage** and trustee sale, the **Person** acquiring title, and his or her successors and assignees, shall not be liable for **Assessments** chargeable to such **Condominium** which became due and payable prior to the acquisition of title by such acquirer. Nothing in this section shall be construed to relieve any **Person(s)** acquiring a **Condominium** by foreclosure from their obligation to pay any **Assessments** that accrued and became due and payable subsequent to their acquisition.

Section 4.7. No Waiver or Offset. No **Owner** may exempt himself or herself from personal liability or release his or her **Condominium** from liens and charges by waiver of any **Owner** rights or by abandonment or non-use of any **Condominium**. Each **Owner**, to the extent permitted by law, waives the benefit of any homestead or exemption law of California in effect at the time that any **Assessment** or installment becomes delinquent or any lien is imposed (see generally *Lien Exception to Homestead Right* - Code of Civil Procedure Section 703.010(b)). No offsets or deductions against any **Assessment** shall be permitted for any reason, including, without limitation, any claim that the **Association** is not properly discharging its duties.

ARTICLE V
RESPONSIBILITIES FOR MAINTENANCE, REPAIR AND REPLACEMENT

The following sets forth **Association** and **Owner** responsibilities for certain components and systems. It also addresses responsibility for damages caused by wood destroying organisms and pests. Any component not addressed herein may be the subject of a policy adopted by the **Board**.

Section 5.1. Association and Owner Responsibilities for Maintenance, Repair and Replacement.

5.1(a) Common Areas. The **Association** shall be responsible for the maintenance, repair, replacement, management, operation, and upkeep of the **Common Areas** (**Restricted Building Common Area** is addressed below).

5.1(b) Restricted Building Common Area. The responsibility for the maintenance, repair and replacement of **Restricted Building Common Area** shall be as follows:

5.1(b)(1) Balconies and Patios.

5.1(b)(1)(i) The **Association** shall be responsible for the repair and/or replacement of patio slabs and balcony components (including wearing surface, structural support, railings, flashing and transitions). **Owners** shall cooperate with the **Association** in providing access to balconies and patios for such repair and replacement. This may include removal by the **Owner** of all personal property. In order to accomplish this work, the **Association** may be required to interrupt access to **Units** for a period of time. If necessary, the costs of temporary loss of use (if any) shall be borne by the **Owner** or other resident of the **Unit** affected.

5.1(b)(1)(ii) The **Owner** shall keep each balcony and patio in good condition and generally clear of trapped water (such as under planters and pots) and leaf debris. The **Board** may also adopt guidelines which reasonably require **Owners** to perform certain other aspects of maintenance of balconies and patios. The **Owner** shall be responsible for all repairs resulting from negligence, neglect or misuse. The **Board** may adopt guidelines which reasonably require **Owners** to perform certain other aspects of maintenance of balconies and patios.

5.1(b)(1)(iii) The **Association** will perform routine and cyclical railing work. **Owners** are responsible for periodically balcony checking railings and shall notify the **Association** of any condition that may require other work. Also, **Owners** are responsible for determination of whether the balcony and railing configurations are appropriate to their particular circumstances (whether child-proofing, pet-proofing or other precautionary measures.) Any alteration that may be visible from outside of the building is still subject to the architectural review and approval process.

5.1(b)(2) Front Doors. The Owner shall be responsible for the maintenance, repair and replacement of front doors, including hinges and all other related hardware. Replacement doors must be approved in advance by the Association and/or must conform to standards adopted in writing by the Association.

5.1(b)(3) Fireplace and Chimney Flue. The Owner shall be responsible for periodic cleaning of the fireplace flue. The Association may, at its discretion, periodically coordinate or otherwise implement chimney flue cleaning. The Owner shall repair and replace the fireplace system components, such as dampers, flues and caps. The Association may periodically require Owners to provide it with either (i) a signed statement of non-use, (ii) evidence of inspection and good condition, or (iii) evidence of timely cleaning. If the fireplace component is shared (i.e., common masonry), related costs shall be shared between the benefitted Owners.

5.1(b)(4) Electrical and Gas Systems. The Building Common Area electrical service is the Association's responsibility up to, but not including, the circuit breaker box that services each particular Unit. The Owner shall maintain, repair and replace (as necessary) the circuit breaker box and all circuit breakers, wiring, switches, receptacles, fixtures or outlets and other related components that serve the Unit. The Owner (or appropriate utility company) is responsible for maintenance, repair and replacement of any gas lines between the meter and the individual Unit.

5.1(b)(5) Irrigation Systems. The Association shall maintain, repair and/or replace the Building Common Area irrigation systems.

5.1(b)(6) Protection from Freeze Damage. Owners shall take reasonable precautions to protect water pipes (including hose bibs) in Restricted Building Common Area from freeze damage.

5.1(b)(7) Plumbing Systems. Except as noted below, the Association is responsible for the maintenance, repair and replacement of plumbing lines located in the Building Common Area. The Owner is responsible for the maintenance, repair, and replacement of plumbing components located within or which are a part of the Unit. This includes, for example shutoff valves under sinks and at toilets. It includes the drain connections at or near toilets, sinks, showers and tubs. Each Owner is responsible for valves that exclusively serve that Owner's Condominium wherever located (such as shower valves). If the Association must perform maintenance, repair, or replacement to pipes inside the wall of a Unit, the Association shall only be responsible for restoring the surface to a condition ready for application of finish material such as paint, carpet or tile.

5.1(b)(8) HVAC Systems. The Owner shall be responsible for the maintenance, repair and replacement of the HVAC (heating, ventilation, and if present, air conditioning) system, including the cold air supply ducts, duct work and flues. Owner maintenance includes changing filters and vacuuming ducts.

5.1(b)(9) Mailboxes. The **Association** is responsible for the maintenance, repair and replacement of the mailbox frame and structure, excluding locks and keys. The **Owner** is responsible for the repair and replacement of locks and keys, as well as labeling of the mailbox.

5.1(b)(10) Carports and Storage Spaces. **Owners** shall be responsible for keeping the interiors of the carports and storage spaces in a neat and clean condition. The **Association** shall be responsible for the maintenance, repair and replacement of the storage room doors, including hinges. The **Owner** is responsible for any locks. The **Association** shall not have responsibility for the security of personal property stored in the storage spaces and shall not be responsible for any **Owner** or **Owner** predecessor modifications.

5.1(b)(11) Owner Improvements. **Owners** shall be responsible for the maintenance, repair, replacement and/or removal of improvements and/or architectural alterations made by or on behalf of **Owner** or an **Owner's** predecessor.

5.1(b)(12) Other Components. Unless otherwise determined by the **Board**, all other **Restricted Building Common Areas** shall be maintained by the **Owner** benefitted, and repaired and replaced by the **Association** to the extent that such work is appropriate due to normal usage. These components shall include main entry doorsteps, main entry stoops, front porches, door frames, window frames (which are affixed to the building and surrounding the opening), door bells, address numbers, and exterior light fixtures immediately adjacent to and serving the particular **Unit**.

5.1(c) Unit Area. Each **Owner** shall keep the interior of the **Owner's Unit**, including fixtures and appliances, in good repair and condition. Each **Owner** shall have the sole responsibility and the exclusive right, at the **Owner's** expense, to do the following:

5.1(c)(1) Decorations and Alterations. The **Owner** may paint, tile, wax, paper, or otherwise refinish and decorate the inner surfaces of walls, ceilings, floors, windows and doors bounding the **Owner's Unit**. Notwithstanding the right to alter interior finishes, unless there is prior **Association** approval, no alteration may be made which may increase sound transmission from one **Unit** to another. **Owners** shall not replace second floor carpet with hardwood floors, tile, linoleum or other hard surfaces unless prior written approval of the **Association** is received (*see also Section 7.13*).

5.1(c)(2) Windows, Skylights and Sliding Glass Doors. The **Owner** shall maintain and keep in good repair the windows and sliding glass doors. This may include periodic cleaning of window weep holes, as well as sealing the bottom tracks, including corners, to keep moisture in the tracks from damaging the **Unit** and the **Building Common Area** walls adjacent to the window and/or sliding glass door. This may also include periodic checking and replacing of inadequate gaskets, putty, caulk or other material which holds the glass to the sash and lubrication of the tracks, wheels and operating hardware of windows and sliding glass doors. The **Owner** is responsible for replacement of the glass, including double

pane glass inserts (if any). The **Association** is responsible for replacing the frame assembly (including pan), as well as any exterior trim around sliding glass doors, windows and skylights if or when determined by the **Board** to be necessary and appropriate. Responsibility for front entry doors is addressed in **Article V, Section 5.1(b)(2)**, above.

5.1(c)(3) Screens. The **Owner** shall maintain, repair and replace window screens and screen doors. Replacement window screens and screen doors must be approved in advance by the **Association** and/or must conform to standards adopted in writing by the **Association**;

5.1(c)(4) Appliances. The **Owner** shall maintain, repair and replace appliances (which are personal property), including dishwashers, refrigerators, ovens, ranges, microwave ovens, individual water heaters, furnaces. The **Owner** is also responsible for the cost to repair damage wherever suffered, caused by the refrigerator water lines and/or any other appliance in **Owner's Condominium**;

5.1(c)(5) Waterproofing Integrity of Surfaces. The **Owner** shall maintain, repair and replace the waterproofing elements of **Unit** surfaces and systems in kitchens and bathrooms, including tiled areas, showers, shower pans, and tubs;

5.1(c)(6) Personal Property. The **Owner** shall maintain, repair and replace fixtures and personal property which utilize water (such as toilets, dishwashers, and refrigerators) in such a manner that they will not cause water or other damage to adjacent areas. **Owners** shall also keep sinks, bathtubs, showers, ice makers/water dispensers, and toilets from leaking or overflowing;

5.1(c)(7) Smoke Alarms. The **Owner** shall maintain and replace battery operated smoke alarms inside the **Unit**; and

5.1(c)(8) Other. The **Owner** shall maintain, repair and/or replace the components identified in the definition of **Unit** herein.

5.1(d) Landscaping. All landscaping on the **Property** shall be kept neat and orderly.

5.1(d)(1) Common Areas. The **Association** shall be responsible for all landscaping located on the **Common Areas**, excluding **Restricted Building Common Area**. This shall include discretion in the trimming, removal and/or replacement of trees and other landscaping. Upon request of an **Owner**, the **Association** may delegate responsibility to that **Owner** for trees (and roots) and/or other landscaping in the **Building Common Area** adjacent to the **Owner's Unit** (such area being inaccessible and not of general use to the membership at large). Where there is any delegating to an **Owner**, the **Association** may require a written agreement to be recorded with title and binding **Owner's** successors.

5.1(d)(2) Restricted Building Common Area. Each **Owner** shall be responsible for all vegetation within his or her balcony and/or patio. Each **Owner** shall contain such

vegetation within the confines of the balcony or patio area and shall be responsible for any damage, including that caused by roots and inadequate drainage of planters, to areas which the **Association** maintains, repairs and/or replaces. The **Association** may regulate landscaping that exceeds fence or railing height or that has roots or branches that protrude beyond the **Owner's Restricted Building Common Area**. Pots and planters on balconies must have spacers beneath them to permit balcony components to dry. No planters or any other items may be placed atop fences or balcony railings, unless the method of attachment and drainage is approved by the **Association**. Nothing in any such approval shall relieve the **Owner** of full responsibility for damage or injury caused by such installation. The **Association** is not responsible for damage to landscaping during painting or other exterior maintenance. The **Association** may prohibit or impose conditions upon plantings of particularly invasive vegetation, such as bamboo and ivy.

5.1(e) Insect Infestation and Wood Destroying Organisms & Pests.

5.1(e)(1) The **Owner** is responsible to take reasonable measures to keep **Restricted Building Common Area** free of (i) wood-destroying organisms (including wood decay) and (ii) pests and the damage they cause. This includes such problems as termites and decay (also known as dryrot). Reasonable measures shall include use of proper racks for storage of firewood, spacers under all pots, planters and other objects which would tend to trap moisture on balconies, and prompt removal of leaves, dirt and other debris. Use of outdoor carpet, artificial turf, or similar covering over balconies and patios is prohibited. Reasonable measures shall also include prompt notification of the **Association** of any conditions which promote and/or cause the presence of wood destroying organisms or pests, or damage which the **Association** should investigate and/or act on. This includes identifying misdirected or broken irrigation sprinklers which may spray on walls or other structures.

5.1(e)(2) At the discretion of the **Board**, the **Association** may assume responsibility to coordinate and cause repair and maintenance where such work must be performed at more than one **Unit**. If the **Association** exercises the right to such control, it may include reasonable notice of the need to temporarily vacate the residence and/or as otherwise provided in Civil Code section 1364.

5.1(e)(3) The **Association** may cause the temporary, summary removal of any occupant of a residence for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

5.1(e)(4) The costs of temporary relocation (including moving personal property if necessary) during the repair and maintenance shall be borne by the **Owner** or other resident of the **Unit** affected.

5.1(e)(5) In the event the **Association** advances costs for which an **Owner** is responsible or costs of enforcement of this section, it may seek reimbursement in the same manner as collection of delinquent **Assessments**.

5.1(f) Hazardous Materials. If the **Association** learns of the presence of any material, organism, or substance in the **Common Areas, Unit, or Restricted Building Common Area** which is deemed by any governmental agency to be actually or potentially hazardous, the **Board** may, at its discretion, make written findings as to the circumstances and the need to take certain action and establish and implement appropriate policy and actions as are in the best interests of the **Association**. This shall include the power to take corrective measures similar to those set forth in **subsection 5.1(e)** above.

Section 5.2. Water Damage. Waterproofing components in **Unit** areas such as kitchens and bathrooms (particularly tubs and showers) may require routine **Owner** maintenance or periodic repair or replacement in order to preserve the waterproofing integrity of the **Unit** areas. In some instances, water damage in these areas may involve **Building Common Area** and/or adjacent **Units**. Where the cause of the damage cannot be determined by observation and unless the parties otherwise agree, in order to (a) diagnose the condition(s), (b) determine reasonable methods and costs of repair, and (c) allocate responsibility, the following shall apply:

- (1) The **Association** shall retain a third party architect, engineer or contractor to observe, test, and/or report on (a) the condition of the subject area, (b) the cause(s) of the damage and (c) a fair allocation of liability and/or repair costs consistent with the lines of responsibility set forth in this **Declaration**.
- (2) If the **Association** advances funds for the testing, demolition, repairs and/or other related costs, it may impose a Reimbursement **Assessment** on the responsible **Owner(s)** pursuant to **Article IV, Section 4.1(d)**.
- (3) All parties shall be permitted to observe any destructive testing and/or demolition exposing the damaged area.
- (4) Upon determination of responsibility, the **Association** may cause the repairs to be performed and impose a Reimbursement **Assessment** on the responsible **Owner(s)** pursuant to **Article IV, Section 4.1(d)**.

Section 5.3. Inspection, Repair and Replacement of Risk Components.

5.3(a) Notwithstanding the provisions of this **Article V**, the **Board** may determine that certain portions of the **Units** required to be maintained by the **Owners**, or certain objects or appliances within the **Units**, pose a particular risk of damage to other **Units** and/or to the **Building Common Area**, or of life safety, if they are not properly inspected, maintained, repaired or replaced. They may pose a risk to adjacent neighbors. Failure and damage may cause insurance claims which in number, type or severity may cause an insurer to non-renew the policy or increase premiums, thereby affecting all **Owners**, not just those with direct damage. Examples of these types of components include chimney flues, smoke detectors, ice maker supply lines, and sump pumps.

5.3(b) If the **Board** determines it warrants **Association** action, has provided notice to the **Owners** of the proposed policy to be adopted and has adopted such policy, then the **Board** may require one or more of the following with regard to an identified Risk Component:

5.3(b)(1) That it be inspected at specified intervals by the **Association** or an inspector designated by the **Association**.

5.3(b)(2) That it be replaced or repaired at specified intervals, or with reference to manufacturers warranties, whether or not the individual component is deteriorated or defective.

5.3(b)(3) That it be replaced or repaired with items or components meeting particular standards or specifications established by the **Board**.

5.3(b)(4) That when it is repaired or replaced, the installation include additional components or installations specified by the **Board**.

5.3(b)(5) That it be replaced or repaired by contractors having particular licenses, training or professional certification or by contractors approved by the **Association**.

5.3(b)(6) If the replacement or repair is completed by an **Owner**, that it be inspected by a **Person** designated by the **Association**.

5.3(c) The imposition of requirements by the **Board** shall not relieve an **Owner** of his or her obligations to perform and pay for repairs, maintenance, and replacement.

5.3(d) The **Association** shall not incur any liability due to the failure to adopt or enforce any such policy.

5.3(e) If any **Owner** fails to repair, maintain or replace a Risk Component in accordance with the requirements established by the **Board**, the **Association** may, after proper notice and hearing, take appropriate action under Article XII.

Section 5.4. Enforcement.

5.4(a) Common Areas. If the need for maintenance, repair or replacement of any **Common Area** is caused by an **Owner**, predecessor **Owner**, or the **Owner's** family, guests, tenants, invitees, or pets, or emanates from within the **Owner's Unit**, then the **Association** may cause the work to be performed and upon determination of responsibility by the **Association** may levy a Reimbursement **Assessment** against the **Owner** and/or the **Owner's Condominium**. If damage to the **Building Common Area** emanates from adjacent **Unit** area, the current **Owner** of the **Unit** from which the damage emanated is responsible for the cost to repair and restore the **Building Common Area**, regardless of when the damage occurred. Any such cost may be levied as a Reimbursement **Assessment**.

5.4(b) Unit and Restricted Building Common Area. If the **Board** reasonably finds that a **Unit** or **Restricted Building Common Area** requires maintenance, repair or replacement of any component or condition for which the **Owner** is responsible, the **Board** may direct the **Owner** to perform the work and if the **Owner** fails or refuses to do so within a reasonable period of time, the **Association** may utilize the provisions of **Article XII** entitled *Enforcement of Governing Documents*, and cause the work to be performed and levy a **Reimbursement Assessment**. The **Association** may also utilize the provisions of **Article XI, Section 11.6(c)** entitled *Association Options for Abating Continuing Nuisances*.

5.4(c) Entry for Repairs. The **Board** or its contractors or agents may enter any **Unit** or **Restricted Building Common Area** when necessary in connection with any maintenance, repair, landscaping, or construction for which the **Association** is responsible. Such entry shall be made with as little inconvenience to the residents as is practical. Whenever possible, at least twenty-four (24) hours' notice will be given to the resident. If the **Owner** or resident is responsible for creating emergency circumstances, and access is not provided by a resident, the **Owner** shall reimburse the **Association** for locksmith fees or other costs to access and/or secure the premises. **Owner(s)** shall be responsible for all **Association** costs incurred due to failure to cooperate and/or provide reasonable access to **Owner's Unit**. The costs of temporary relocation (including moving personal property if necessary) during the repair and maintenance shall be borne by the **Owner** of the **Unit** affected.

5.4(d) Continuing Nuisance. Failure of an **Owner** to perform any maintenance, repair or replacement determined by the **Board** to be the **Owner's** responsibility and necessary shall be deemed a continuing nuisance.

5.4(e) Other Options. These enforcement options shall be in addition to those provided for in **Article XII**.

Section 5.5. Miscellaneous.

5.5(a) Where repair or replacement of components crosses lines of responsibility, the **Association** may undertake the work and charge the **Owner** an appropriate amount and/or impose a **Reimbursement Assessment**. For example, where the cause of damage originates in or at one **Unit** and necessitates **Association** repair of **Building Common Area**, the **Association** may, but shall not be required to, repair damage to neighboring **Unit** area as part of the overall repair process.

5.5(b) The **Association** shall not be liable for any interior water related or other damage to the **Units** (including personal property) unless it can be shown that the **Association** acted with gross negligence in any maintenance, repair or replacement project undertaken by the **Association**. Further, the **Association** shall not be liable for any loss of use caused for any reason.

5.5(c) The **Association** is not responsible for any costs or expenses relating to temporary relocation (including moving personal property if necessary) or loss of use of **Units** during any maintenance, repair and/or replacement of any facet of the **Condominiums**, regardless of the reason for such work.

5.5(d) In the event the **Association** must disturb interior finished surfaces when performing maintenance, repair or replacement of any component, the **Association** shall be responsible only for restoring the surface to a condition ready for application of finish material such as paint, carpet or tile.

5.5(e) Earthquake Damage. The **Association** shall have no liability for uninsured or underinsured damage to **Unit** areas or personal property caused by an earthquake or other catastrophic event.

ARTICLE VI **UTILITIES**

Section 6.1. Owners' Rights and Duties. The rights and duties of the **Owners of Condominiums** within the **Lots** with respect to sanitary sewer, water, drainage, electric, gas, television receiving, telephone equipment, cables and lines, exhaust flues, and heating and air conditioning facilities (hereinafter referred to collectively as "Utility Facilities") shall be as follows:

6.1(a) Access. Whenever Utility Facilities are installed within the **Property**, which Utility Facilities or any portion thereof lie in or upon **Condominiums** owned by other than the **Owner** of a **Condominium** served by said Utility Facilities, the **Owners** of any **Condominium** served by said Utility Facilities shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the **Condominiums** or to have the utility companies enter upon the **Condominiums** in or upon which said Utility Facilities, or any portion thereof, lie, to repair, replace and generally maintain said Utility Facilities as and when necessary.

6.1(b) Use and Enjoyment. Whenever Utility Facilities are installed within the **Property** which Utility Facilities serve more than one (1) **Condominium**, the **Owner** of each **Condominium** served by said Utility Facilities shall be entitled to the full use and enjoyment of such portions of said Utility Facilities as service his or her **Condominium**.

6.1(c) Dispute Resolution. 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 (1) of such **Owners**, all of the **Owners** within that **Building** shall participate in a mediation conducted by Marin Mediation Services. If the matter is not resolved through mediation, the **Owners** may file an action in Small Claims Court.

Section 6.2. Easements for Utilities and Maintenance. Easements over and under the **Property** for the installation, repair, and maintenance of electric, telephone, water, gas, and sanitary sewer lines and facilities, heating facilities, cable or master television antenna lines,

drainage facilities, walkways, and landscaping as shown on the recorded Map of the **Property**, and as may be hereafter required or needed to service the **Property**, are hereby reserved, together with the right to grant and transfer the same. Reciprocal easements exist for the installation, repair, maintenance and replacement of meters for water, gas and electricity, so each **Owner** shall have access to the meter(s) for his or her **Unit**, regardless of where located.

ARTICLE VII
USE RESTRICTIONS

The **Property** shall be occupied and used as follows:

Section 7.1. Use of Units.

7.1(a) No **Owner** shall occupy, use or permit his or her **Unit** to be used for any purpose other than as a private residence. (Also see **Section 7.9 - Restriction on Businesses**)

7.1(b) No **Owner** shall permit anything to be done or kept in his or her **Unit** which will result in the increase of premiums, decrease in coverage or cancellation of insurance on any **Unit** or any **Building Common Area**, or which would be in violation of any law. The **Board** may make such a determination based on facts reviewed in a duly noticed hearing. To the fullest extent permitted by law, if the nature of use of any **Unit** causes an increase in the rate of insurance procured by the **Association**, the **Board** may levy a Reimbursement **Assessment** for the additional amount.

7.1(c) Nothing shall be done in any **Unit** which will impair the integrity of fire, structural or acoustical components of any **Building**. Requests for architectural changes are addressed in **Article XI**.

7.1(d) No **Person** shall cause or permit any objects or articles of any kind, except for outdoor patio or lounge furniture, planters, related outdoor equipment and gas barbecue grills to be placed on or hung on the balcony, patio or fence without obtaining the prior consent of the **Association**. The consent may take the form of pre-approved written guidelines. Such guidelines may include specifics as to size, placement and number of plants and other personal property. No outdoor carpeting, artificial grass or similar covering shall be placed on any balcony or patio.

7.1(e) Each **Person** shall comply with all of the requirements of all governmental authorities, federal, state and local, and all laws, ordinances, rules and regulations applicable to his or her **Condominium**. Violation of any such law is also a violation of these **CC&Rs**.

Section 7.2. Use of Common Area. Use of the **Common Area** is subject to **Association** rules and restrictions adopted by the **Board**. Use of the **Common Area** is further subject to the following:

7.2(a) No **Owner** shall permit anything to be done or kept in the **Common Area** which will result in the decrease in coverage or cancellation of insurance on any **Unit** or **Common Area**, or which would be in violation of any law.

7.2(b) There shall be no obstruction of the **Common Area**. Nothing shall be stored in the **Common Area** without the prior consent of the **Board**, in accordance with guidelines adopted by the **Board** or in designated storage areas. Except for reasonable amounts kept for normal household use, no gasoline, kerosene, cleaning solvents or other flammable liquids shall be stored anywhere on the **Property**. This includes the carports and storage areas.

7.2(c) Nothing shall be done to or in the **Common Area** which has an adverse effect on its enjoyment, use, value, insurability, condition or appearance. **Owners** shall be liable for their own acts, as well as jointly and severally liable for the acts of family members, tenants, pets, guests and invitees. Any damage or destruction to the **Common Area**, or areas the **Association** maintains may result in a Reimbursement **Assessment** being levied against the **Owner**, his or her tenant, and his or her **Condominium**.

7.2(d) Nothing shall be altered or constructed or removed from the **Common Area**, except with the written consent of the **Board**.

7.2(e) There shall be no violation of the rules and regulations relating to the use of the **Common Area**.

7.2(f) In order to properly maintain and repair the **Common Area** and other components which are the **Association's** responsibility, it is important that the **Board** have notice of any problems. **Owners** are encouraged to report to the **Association** any problem observed in the condition of the **Common Area** or other area of **Association** responsibility, particularly adjacent to their respective **Units**.

Section 7.3. Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the **Property**, and shall not be allowed to accumulate. Trash, garbage, and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, garbage cans, woodpiles or storage piles shall be kept concealed from view of other **Condominiums**, streets and **Common Areas**. The **Association** shall provide garbage collection and pay the cost of removal of garbage from the central pick-up point(s).

Section 7.4. Noncommercial Signs, Posters, Flags and Banners. No signs, posters, flags or banners are permitted except as provided for by law or approved by the **Board**. All permitted displays shall comply with any applicable city ordinances and shall not be permitted to become a visual blight or nuisance, such as through weather related or other deterioration. Permitted displays may not be installed in a manner that damages **Building Common Area** exteriors or increases the exterior maintenance costs for the **Association** and/or other **Owners**. For example, displays may not be held in place with nails or other attachments which may cause leaks or

promote decay. **Owners** are responsible for any increased maintenance costs and/or damage which occurs as a result of the display. Commercial signs are not permitted, with the exception of one (1) for sale or for rent sign per **Unit**. The **Board** may adopt reasonable rules or policies on the overall subject, including the type, appearance and size of permitted real estate signs. Enforcement shall be limited to instances in which such action does not violate any law or regulation governing the display of signs, posters, flags or banners.

Section 7.5. Animals.

7.5(a) No animals, livestock, or poultry of any kind shall be raised, bred, or kept in any **Unit** or the **Common Area**, except that a total of two (2) usual and ordinary household pets, such as dogs and/or cats may be kept in **Units**, subject to the rules and regulations adopted by the **Board**. **Association** rules may include additional limitations on type, size and/or numbers of animals which may be kept, as well as breed and other restrictions or prohibitions.

7.5(b) Any additional dogs and cats which were being kept at the time of recordation of this **Declaration** will be grandfathered in provided that (a) the keeping of such pets is registered in writing with the **Association** on or before December 31, 2009, and (b) all provisions of this policy are strictly observed. In order to register a pet, owners/residents must inform the **Association** of the type and breed of pet and must provide a current color photograph and other identifying description. If not registered, no grandfathering will apply.

7.5(c) No animals may be kept for commercial purposes.

7.5(d) Dangerous pets or pets identified to be vicious are not allowed under any circumstances. A pet showing aggressive conduct may be immediately barred from the **Property** until a hearing can be conducted to determine if the removal shall be permanent.

7.5(e) **Owners** shall be fully responsible for any damage caused by their pet or the pets of their tenants, guests or invitees.

Section 7.6. Nuisance. No noxious or offensive activity shall be carried on in any **Condominium** or in any part of the **Property**, nor shall anything be done therein which may be or become an annoyance or nuisance to the other residents. Nuisance may include, for example, loud, noxious, destructive or offensive activity or anything which causes significant embarrassment, disturbance or annoyance to others. Some activity at inappropriate times may constitute a nuisance. The **Association** has the authority to elaborate with examples and pass rules addressing such activity.

Section 7.7. Vehicles.

7.7(a) Rules. In order to promote vehicle safety and enhance the appearance and atmosphere of Parkview Terrace, **Owners** shall park, store or keep vehicles in accordance with rules and regulations adopted by the **Association**, which may be amended from time to time

in accordance with the provisions of the **Davis-Stirling Act**. These rules may include provisions such as parking, vehicle types, auto alarms, etc. Vehicle restrictions shall apply to all streets, driveways and parking areas within the **Property**.

7.7(b) Vehicle Type Restrictions. In guest or other **Building Common Area** parking, no **Person** shall park, store or keep any large commercial type vehicle, any recreational vehicle, boats, jet skis, and similar recreational equipment, commercial equipment, or any vehicle other than a private passenger vehicle. Vehicles displaying reasonable commercial signage are permitted provided the signs are not directed outward when the vehicle is parked in a carport. Camper trucks and sport utility vehicles up to and including three-quarter (3/4) ton capacity, when used for everyday-type transportation (and not used for commercial purposes), are permitted.

7.7(c) Other Limitations.

7.7(c)(1) Parking is permitted in designated areas only.

7.7(c)(2) Guest parking spaces shall not be used for vehicle storage. Vehicles or other property parked continuously for a period longer than seventy-two (72) hours may be tagged and/or subject to towing at the owner's expense. If special circumstances arise (e.g., vacation, illness, business trip) in which a vehicle will be parked continuously in the same uncovered parking space for more than three days, the resident should notify the **Association** in advance.

7.7(c)(3) Each three-bedroom **Unit** has two (2) assigned parking spaces and each two-bedroom **Unit** has one (1) assigned parking space. All unassigned parking spaces are available on a first-come, first-serve basis. Due to the limited number of unassigned **Building Common Area** parking spaces, a maximum of two non-guest vehicles shall be permitted per **Unit** and parked on the **Property**, unless prior approval of the **Association** is obtained. Residents must first use their carports for parking so as to avoid frequent or continual parking of that resident's vehicles in unassigned **Building Common Area** parking spaces.

7.7(c)(4) Loading or unloading of prohibited vehicles and equipment is permitted subject to a 24 hour time limit.

7.7(c)(5) Carports may only be used for parking of vehicles (including bicycles) and may not be used for other storage.

7.7(c)(6) There shall be no repairs or restorations of any motor vehicle, boat, trailer or other vehicle upon any portion of the **Property** (including the carports and/or driveways). Emergency repairs may be performed, but only to the extent necessary to enable prompt movement to a proper repair facility.

7.7(c)(7) No vehicle which emits extraordinary levels of exhaust pollution or noise, as determined by the **Board**, shall be operated within the **Property**.

7.7(c)(8) Vehicles must display a current registration and be operable. In order to avoid unsightly appearances within the **Property** vehicles parked outside where they are visible must present a well maintained appearance. For example: all vehicles must be in operating condition and have no flat tires, broken windows, oil leaks, significant body damage and/or primer paint.

7.7(c)(9) The **Board** may adopt rules regulating placement and use of debris boxes, moving containers and other such containers in the **Building Common Area**.

7.7(d) Towing. The **Association** may cause any vehicle parked on **Common Area** in violation of the **Governing Documents** to be towed, subject to the provisions of California Vehicle Code section 22658.

Section 7.8. Antennae, Satellite Dishes, External Cables or Fixtures, etc. No radio and television antennae, television or telephone cable or other exterior wiring, satellite dishes or other exterior fixtures may be erected or kept in place on **Building Common Area** without the prior written consent of the **Association**. Enforcement shall be consistent with any Federal or State law or regulation governing the installation of satellite dishes and antennae. The **Association** may adopt a policy and/or guidelines on the subject consistent with applicable law. It is the goal of the **Association** to allow **Owners** to enjoy the benefit of satellite technology while continuing to enhance and maintain the aesthetic beauty and value of the **Property**, as well as preserve the integrity of exterior waterproofing.

Section 7.9. Occupancy Restrictions. The **Association** wishes to avoid overcrowding which may create a nuisance to the immediate neighbors of the **Unit** and the community in general through excessive noise, use of common facilities, and frequent comings and goings. Excessive occupancy of **Units** may also penalize other **Members** of the **Association** by requiring them to pay a disproportionate share of the commonly metered water. Further, overcrowding is likely to diminish the benefit of community amenities such as the swimming pool, parking facilities and garbage containers. Therefore, no more than two (2) persons per bedroom, plus one (1), may reside in any one **Unit** at one time.

Section 7.10. Restriction on Businesses. No trade or business shall be conducted in or from any **Unit**, except for professional, administrative type work, provided there is no external evidence thereof and, if the **Board** adopts a related policy, it is conducted in accordance with that policy. In no event shall a business be conducted which will (a) have a measurable negative impact on neighbors, (b) increase vehicle or foot traffic within the **Property** or to the **Unit**, (c) cause any damage to the **Common Area**, (d) adversely affect or increase the cost of **Association** insurance, (e) increase by any significant amount, electrical or water consumption or (f) interfere with the primary use of the **Condominium** as a residence.

Section 7.11. Laundry Equipment. The **Association** maintains common laundry facilities. The **Units** are not plumbed, vented or metered for use of individual laundry equipment within **Units**. Washers and/or dryers are not permitted in **Units**. Any such laundry equipment which was in operation within individual **Units** prior to December 31, 2009 shall be allowed to remain for the useful life of each piece of equipment, until the **Unit** containing such previously installed equipment is leased, rented, or sold, whichever first occurs, provided the **Owner** can provide sufficient proof to the **Board** that such equipment existed as of December 31, 2009. If the **Owner** is unable to produce such evidence, there shall be a presumption that the equipment is not permitted and must be removed.

Section 7.12. Outdoor Grills/Barbecues. The **Board** may adopt reasonable rules restricting the type and usage of outdoor charcoal grills, barbecues or other charcoal burning devices on the **Property**.

Section 7.13. Floor Coverings. After recordation of these **CC&Rs**, **Owners** with living space over another's **Unit**, shall not replace upper floor carpet with hardwood floors, tile, linoleum or other hard surfaces unless prior written approval of the **Association** is received. Pre-existing hard surface flooring (where there was originally carpet) will be "grandfathered" on the condition that (a) the **Owner** provides the **Board** with photographs and a letter to confirm the condition, and (b) the flooring does not create or worsen an acoustical problem. Unregistered flooring will be a violation of the restriction. Replacement of a registered hard surface floor is not permitted unless written pre-approval of the **Board** is obtained. A written record of the grandfathered condition must be kept by the **Owner** and any successor. If the **Owner** is unable to produce such evidence, there shall be a presumption that no approval was granted and the grandfathering provision does not apply.

In the event that there are acoustical problems between neighbors, the **Association** may refer the individuals to outside mediation services. Failure or refusal of involved individuals to participate may cause the **Association** to incur legal or other costs which may become the subject of a Reimbursement **Assessment**. If there is a pattern of floor related noise problems, one option available to the **Association** is to require that the **Owner** of any **Condominium Unit** that has hard surface flooring install padding and/or area rugs or other carpet over 70% of any room with hard surface floors.

Section 7.14. Illegal Acts. Any illegal act or condition shall also constitute a breach of the **Governing Documents** and may, at the option of the **Association**, be enforced as such.

ARTICLE VIII SALE OR LEASE OF CONDOMINIUMS

Section 8.1. Rental or Lease of Condominiums. A general objective of the **Governing Documents** is to protect, enhance and maintain the residential atmosphere which exists within the **Property** and to avoid occupancy of residences for short periods of time or by an unreasonable number of individuals. Further, no **Owner** is permitted to lease his or her **Condominium** to a

Person or company who would then sublet to others for transient or short term use. No less than the entire **Condominium** shall be rented or leased unless the **Owner** remains in occupancy and receives the written approval of the **Board**. Accordingly, an **Owner** shall be entitled to rent, lease or permit use of his or her **Condominium** if:

8.1(a) There is a written rental or lease agreement specifying that (1) the resident(s) shall be subject to all provisions of the **Governing Documents**, (2) a failure to comply with any provision of the **Governing Documents** shall constitute a breach of the agreement, and (3) all tenants are subject to disciplinary action or other actions by the **Association** to enforce the **Governing Documents**;

8.1(b) The initial period of the rental or lease is not less than ninety (90) days. Thereafter, tenancy under any lease or sublease shall be not less than thirty (30) days;

8.1(c) The **Owner** provides any tenant with current copies of all the **Governing Documents**. The **Owner** shall also provide copies of any subsequent changes or additions. The **Association** may require evidence that the tenant has received copies of all **Governing Documents**. If such evidence is requested and is not timely provided, the **Association** may unilaterally provide such copies and charge the **Owner** a Reimbursement **Assessment**;

8.1(d) The **Owner** and the tenant shall be jointly and severally liable at all times for compliance by the tenant or other residents or guests with the **Governing Documents** during the tenant's occupancy and use of the **Condominium**;

8.1(e) The **Owner** shall forego the use of the recreational facilities during the time that the **Owner's Condominium** is occupied by a tenant;

8.1(f) The **Owner** shall be responsible for any damage caused by the tenant or guest to **Association** property;

8.1(g) The **Owner** shall notify the **Association** of the name, day and evening telephone numbers and email address for each tenant and any other residents within ten (10) days of the change in occupancy, and provide the **Association** with a copy of the lease agreement.

Section 8.2. Sale of Condominiums - Obligations of Owners. Owners shall be subject to the following:

8.2(a) **Owner's Duty to Notify Association of Contract Purchasers.** Each **Owner** shall notify the **Association** of the names of any contract purchaser of the **Owner's Condominium**.

8.2(b) **Contract Purchasers.** A contract seller of a **Condominium** must delegate his or her voting rights as a **Member** and his or her right to use or enjoy the **Common Area** to any contract purchaser in possession of the property. However, the contract seller shall remain

jointly and severally liable for any default in the payment of **Assessments** by the contract purchaser until title to the property sold has been transferred to the purchaser.

8.2(c) Documents and Information Relating to Sale. Prior to the transfer of title to a **Condominium**, the selling **Owner** shall provide the prospective purchaser with a copy of the **Governing Documents** and such other documents and information as are required by California Civil Code Section 1368 and the law generally.

Section 8.3. Termination and Commencement of Obligations. Even if an annual **Assessment** has been levied or a special **Assessment** is payable in installments, when ownership changes occur:

8.3(a) the transferring-**Owner** shall be personally liable for the pro rata share of all **Assessments** which are due and payable up to the time of transfer, and

8.3(b) the transferee shall be personally liable for the pro rata share of all annual and other **Assessments** which are due and payable after acquisition of the ownership interest.

In the event payment of an annual or other **Assessment** has been accelerated under **CC&R Article IV, Section 4.5(c)**, upon change in title, the personal liability of both parties shall nonetheless be prorated, as if the acceleration did not occur. Therefore, neither shall be personally liable for amounts due and payable during a time when no ownership interest is held. This section addresses personal liability only. A lien, and the **Association's** right to lien, survives a voluntary conveyance of a **Condominium**.

Section 8.4. Notice of Acquisition. A purchaser or other **Person** acquiring an ownership interest to a **Condominium** shall notify the **Association** not more than ten (10) days after the date of acquisition and provide (a) the name(s) of all **Persons** with an ownership interest as listed on the recorded title transfer documents, (b) a mailing address for the **Owner(s)**, (c) day and evening telephone numbers, (d) an email address, and (e) the effective date of acquisition of each ownership interest.

Section 8.5. Acceptance of Condominium Conditions. When acquiring a **Condominium**, the new **Owner(s)** accept responsibility for conditions created by the predecessor, which may include unresolved architectural violations, creation of defective conditions or failure to perform proper maintenance, repair and replacement of components in and around the **Condominium** and adjoining or adjacent **Restricted Building Common Area**. It is therefore important that **Owner/sellers** properly disclose conditions and prospective purchasers examine the condition of **Restricted Building Common Area** and **Building Common Area** in and around the **Unit**.

**ARTICLE IX
INSURANCE**

Section 9.1. Types of Insurance. The **Association** shall procure and maintain the following types of insurance:

9.1(a) Fire and Hazard Insurance. Fire and hazard insurance with coverage for the replacement value of **Recreation Common Area** and the **Condominiums**. By definition, **Condominiums** includes all **Building Common Area (section 1.6)** wherever located, **Restricted Building Common Area (section 1.22)** and **Unit area (section 1.23)**. The **Association** may also insure any property, whether real or personal, owned by the **Association**, against loss or damage, with the **Association** as owner and beneficiary for such insurance. Such insurance shall contain a waiver of subrogation claims against the **Owners**.

9.1(b) Additional Endorsements. To the extent not included in the basic policy coverage, the following endorsements should be included, as deemed appropriate by the **Board**: building ordinance, demolition, increased cost of construction and contingent liability from the operation of building laws, inflation guard coverage, "agreed amount" endorsement, replacement cost endorsement; and primary coverage endorsement.

9.1(c) Liability Insurance. A commercial general liability policy insuring the **Association**, its agents, and the **Owners** against liability incident to the ownership or use of the **Common Areas** or any other **Association**-owned or maintained real or personal property. The amount of general liability insurance that the **Association** shall carry at all times shall not be less than the minimum amounts required by California Civil Code section 1365.7 and California Civil Code section 1365.9 or successor statutes.

9.1(d) Directors and Officers Liability Insurance. Directors and Officers Liability Insurance shall be maintained in an amount which is no less than the minimum amounts required by California Civil Code section 1365.7.

9.1(e) Other Insurance. Worker's Compensation insurance to the extent necessary to comply with applicable laws, and any other insurance deemed necessary or appropriate by the **Board**.

Section 9.2. Provisions and Limitations. It is acknowledged that terms of insurance coverage do not always coincide with defined areas of **Owner** and **Association** ownership, or responsibilities to maintain, repair or replace. Notice is hereby given to any insurer issuing policies in accordance with these **CC&R** requirements, that the **Association's** fire and hazard insurance shall be construed to provide the coverage for all improvements (whether **Unit, Building Common Area, Recreation Common Area, or Restricted Building Common Area**) wherever located. Should there be a conflict or inconsistency between the coverage provided in the policy and those definitions or responsibilities required by the **CC&Rs**, the more comprehensive of the two shall be applied.

Section 9.3. Coverage Not Available. If any insurance policy or endorsement required by this Article is not available, or is economically unfeasible, then the **Association** shall obtain alternate insurance which provides, as nearly as reasonably possible, such coverage.

Section 9.4. Owner Required Insurance.

9.4(a) Every **Owner** is required to carry Comprehensive Personal Liability Insurance. Each **Owner** should consult his or her insurance agent as to the most appropriate insurance. An **Owner** landlord shall require tenants to maintain similar insurance. The **Association** may adopt rules specifying minimum required coverage and may update these rules periodically.

9.4(b) Insurance procured by the **Association** does not cover many perils and liabilities individual **Owners** and residents may incur. For example, if an **Owner** caused a fire which also damaged an adjacent **Unit**, the **Association's** master policy may not necessarily restore **Unit** areas which have been upgraded, will not pay for living expenses during repairs and will not pay for or defend the **Owner** against the neighbor's claim for damage to the neighbor's **Unit**, personal property and living expenses during repair. Any improvements made by an **Owner** within his or her **Unit** may be separately insured by the **Owner**, but the insurance is to be limited to the type and nature of coverage commonly known as "improvements insurance." The **Association** shall make available to all **Owners** a copy of the **Association's** policy to enable **Owners** to insure their **Units** without duplicating insurance carried by the **Association** and inadvertently triggering a co-insurance clause in the **Association's** policy. It is very important that each **Owner** consult with his or her insurance professional in procuring or maintaining the insurance required above. The subject of loss assessment coverage generally and loss assessment coverage for earthquake damage should also be addressed. All insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to the **Association**.

9.4(c) The **Association** may require evidence of **Owner** or resident compliance with this section, but shall not be required to do so. The **Association** shall have no liability for failure to confirm that **Owners** or other residents have procured such insurance.

Section 9.5. 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 this Article, **Section 9.1**. The **Board** is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 9.6. Earthquake Insurance.

9.6(a) The **Association** may, but shall not be required to, obtain earthquake insurance. The **Association**, **Directors** and/or manager shall not incur any liability for the failure to obtain or maintain earthquake insurance or a seismic reserve account. The **Board** may periodically

submit to the **Owners** the question of whether or not to obtain earthquake insurance, which may be submitted in the form of a vote to increase **Assessments** to cover such cost.

9.6(b) Whether or not a master policy is in place, **Owners** are urged to consult with their insurance professionals on the subject of individual earthquake insurance, including related loss **Assessment** coverage.

9.6(c) After consultation with the **Association's** certified public accountant and/or counsel, at its discretion, the **Board** may establish and maintain a seismic reserve fund which shall be accounted for in the same manner as other reserve accounts. Such fund may be in conjunction with or in lieu of earthquake insurance. The fund may also be used for upgrading structural components.

9.6(d) The cost of the deductible due to an earthquake loss shall be borne equally by all **Owners** and/or paid from any seismic reserve. The cost of any other funding shortfall due to an earthquake loss shall be the responsibility of the individual **Owners** affected.

Section 9.7. Association Insurance Deductible. The **Board** has discretion to determine both the size of the deductible, as well as allocation of responsibility to pay the deductible for any insurance claim. In the event a deductible policy has not been adopted by the **Board**, or the **Board** does not, in its discretion, allocate the deductible in a different manner, the deductible shall be paid by the **Owner** of the **Unit** where the point of origin of the physical damage occurs. Responsibility for earthquake deductibles is addressed in **Section 9.6(c)** above. In the event the **Association** advances the cost of a deductible for which the **Owner** is responsible, such amount may be levied against the **Owner** as a Reimbursement **Assessment**.

ARTICLE X DAMAGE, DESTRUCTION AND CONDEMNATION

Section 10.1. Restoration Defined. As used in this Article, the term "restore" shall mean repairing, rebuilding or reconstruction of damage to substantially the same configuration and appearance as prior to fire or other casualty damage.

Section 10.2. Insured Casualty. If any improvement is damaged or destroyed from a risk covered by the insurance maintained by the **Association**, then the **Association** shall, to the extent permitted under existing laws, Restore the improvement. The **Association** shall proceed with the filing and adjustment of all claims arising under the existing insurance policies. The insurance proceeds shall be paid to and held by the **Association**. The **Association** may delegate such responsibility to the **Owner** as to **Unit** area repairs which may be covered by the insurance.

Section 10.3. Restoration Proceeds. The costs of restoration of the damaged improvement shall be paid first from any insurance proceeds paid to the **Association** under existing insurance policies. If the insurance proceeds exceed the costs of restoration, the excess proceeds shall be paid into reserves and held for the benefit of the **Association**. If the insurance proceeds are

insufficient to restore the damaged improvement, the **Board** shall then add to the insurance proceeds any reserve account funds designated for the repair or replacement of the damaged improvement. If the total funds then available are sufficient to restore the damaged improvement, the improvement shall be restored. If the aggregate amount of insurance proceeds and such reserve account funds are insufficient to pay the total costs of restoration, a special **Assessment** shall be levied by the **Board** up to the maximum amount permitted without the approval of the **Owners** or in accordance with the limitations or other provisions set forth in this **Declaration** or by law. If the total funds then available are sufficient to restore the damaged improvement, the improvement shall be restored. The **Board** may also procure funding for reconstruction from any commercial lender or governmental entity.

If the total funds available to the **Association** are still insufficient to restore the damaged improvement, then the **Board** shall first attempt to impose an additional special **Assessment** pursuant to **Section 10.4** below; and second to use a plan of alternative reconstruction pursuant to **Section 10.5** below. If the **Owners** do not approve such actions, then the entire building of which the damaged improvement is a part shall be addressed as set forth below.

Section 10.4. Additional Special Assessment. If the total funds available to restore the damaged improvement as provided in **Section 10.3** are insufficient, then the **Association** shall request that the **Owners** approve a special **Assessment** to make up all or a part of the deficiency ("Additional Special **Assessment**"). If the amount of the Additional Special **Assessment** approved by the **Owners**, and the amounts available pursuant to **Section 10.3** above, are insufficient to restore the damaged improvement, or if no Additional Special **Assessment** is approved, the **Association** shall consider a plan of alternative reconstruction in accordance with **Section 10.5**. Raising and spending money on such repairs is without prejudice to the levy of a Reimbursement **Assessment**, Extraordinary Expense **Assessment** (**Section 4.1(c)**), borrowing and/or assertion of any other legal right with respect to a party that caused or is otherwise responsible for the damage.

Section 10.5. Alternative Reconstruction. The **Board** shall consider plans to reconstruct the damaged improvement, making use of whatever funds are available to it pursuant to **Section 9.3** and **Section 9.4** above. The **Board** shall present any proposed plan for Alternative Reconstruction to the **Owners** for approval. A plan for Alternative Reconstruction must be approved by an affirmative vote of two-thirds of the voting power of the **Owners** whose **Building** was damaged, ("Affected **Owners**"), and a majority of the voting power of all **Owners**. If no plan for Alternative Reconstruction is agreed to within nine (9) months of the onset of the damage, then the provisions of **Section 9.7** shall apply.

Section 10.6. Rebuilding Contract. If any improvement is significantly damaged or destroyed, the **Board** shall retain one or more licensed design professionals for the purpose of evaluating the scope of the necessary restoration, preparation of plans and specifications, solicitation of bids, and coordination of any repair and reconstruction of the **Property**. If there is a determination to restore the building to the same general condition or reconstruct using an alternative reconstruction plan, the **Board** shall have the authority to enter into a written contract with a contractor for such repair

and reconstruction after obtaining bids from at least two licensed and reputable contractors. The **Board** shall take all steps necessary to assure the commencement and completion of repair and reconstruction at the earliest possible date.

Section 10.7. Sale of Building. If the damaged improvement is part of a **Condominium** building ("Damaged **Building**"), the damage renders one or more of the **Units** as long term uninhabitable, and the improvements will not be restored in accordance with the provisions of **Sections 10.3, 10.4, and 10.5**, with the approval of more than fifty percent (50+%) of the **Owners** within the Damaged **Building**, the **Board**, as the attorney-in-fact for each **Owner** of a **Unit** of the Damaged **Building**, shall be empowered to sell all or part of the Damaged **Building**, including all residences therein, in their then present condition, on terms to be determined by the **Board**, provided that the **Board** receives adequate assurances that the purchaser shall, and has the financial capability to: (i) restore the Damaged **Building** (either by renovation or removal and rebuilding), (ii) remove the Damaged **Building** and restore any remaining improvements as may be necessary, (iii) remove the Damaged **Building** (including foundations), grade the area, and appropriately landscape or otherwise improve the area, or (iv) perform any combination of the foregoing. Any work to be performed by the purchaser with respect to any of the foregoing shall be subject to **Association** architectural approval.

In lieu of selling the Damaged **Building** to a third person, the **Association** may purchase the **Condominium** building on satisfaction of the following conditions:

10.7(a) **Owners** holding a majority of the total voting power (including a majority of the votes allocated to the **Units** within the Damaged **Building**) approve of the purchase;

10.7(b) the purchase price is the fair market value of the Damaged **Building** as of the date of sale as determined by an appraisal made by a qualified and independent real estate appraiser;

10.7(c) any special **Assessment** needed to fund the purchase price shall be levied against all **Units**, including the **Units** within the Damaged **Building**;

10.7(d) the **Association** has an adequate source of funds to repair, renovate or rebuild all or a portion of the Damaged **Building** and/or to remove and appropriately landscape the remaining area. For this purpose, no **Condominium** that is being purchased shall be subject to any **Assessment** intended to be used as a source of such funds.

The proceeds from any sale, together with the insurance proceeds received and any reserve funds allocated to the Damaged **Building**, after deducting therefrom the **Association's** sale expenses, including commissions, title and recording fees, and legal costs, shall be distributed among the **Owners** of **Units** in the Damaged **Building** and/or their respective **Mortgagees**, in proportion to their ownership interest in the **Building Common Area**.

If a **Damaged Building** is removed and not restored so that the new building contains the same number of **Units** as the removed building, the **Board** shall take appropriate steps to adjust the property interests of the remaining **Unit Owners** to effect such amendments as may be necessary to the **Declaration**, the **Condominium Plan** and the **Map** to reflect the revised property interests and other related changes.

Section 10.8. Board Discretion. There is no practical way to anticipate the particular circumstances of every catastrophic event and the best course of action to make appropriate repairs. In dealing with such an event, failure to technically comply with the requirements of this Article shall not invalidate the decisions and actions of the **Board** so long as the **Directors** have made their decisions in a manner consistent with the following. **Board** decisions have been made in good faith and in the best interest of the all **Owners** and the **Property**. The **Board** has worked with and relied on the opinions and recommendations of professionals or others with expertise in the subject matter. The overall objectives of the **Board's** efforts have been to minimize further damage to the **Property**, to restore habitability to the **Units** and/or protect the value of the **Property**, including the secured interests of **Mortgagees**.

Section 10.9. Condemnation. In the event of a taking by eminent domain of any part of the **Building Common Area**, the proceeds of condemnation shall be allocated between the **Owners** of **Condominiums** in accordance with the provisions and procedures hereof.

ARTICLE XI **ARCHITECTURAL CONTROL**

Section 11.1. Architectural Approval.

11.1(a) Owners are permitted to cosmetically alter or remodel the interiors of their **Units**, provided that they do not impair the safety, structure or acoustics of the **Building** and do not alter the exterior appearance of the **Unit** or **Building**. **Owners** must comply with all laws and ordinances regarding alterations and remodeling. If a building permit is required for any interior work, the **Owner** is required to provide a copy to the **Association** prior to the commencement of work.

11.1(b) Owners must obtain **Association** approval prior to the removal, alteration or replacement of any gypsum board or framing. The **Association** may require a copy of professional plans to be submitted before any approval is granted. The **Board** may exercise control directly or appoint an Architectural Committee.

11.1(c) Owners may not alter their **Units** in any manner which may result in increased sound transmission into any other **Unit**. **Owners** may not install any air conditioning unit of any kind without the prior, written approval of the **Association**.

11.1(d) The **Association** has the right to approve or disapprove any proposed alterations.

Section 11.2. Architectural Committee. The Architectural Committee, if any, shall be composed of three (3) **Owners** appointed by the **Board**. If there is no committee, the **Board** shall function in this role. Any decision on an application shall be subject to the ultimate control of the **Board**. If a decision on an application has been rendered by the Architectural Committee, there shall be a right of appeal to the **Board**. The determination of the **Board** shall be final. The **Board** shall always maintain the ultimate authority to overrule the Architectural Committee. Members of the Architectural Committee shall not receive any compensation for services rendered. The **Board** may approve reimbursement to Architectural Committee members for reasonable out-of-pocket expenses incurred by them in connection with the performance of any Architectural Committee functions.

Section 11.3. Architectural Procedures/Guidelines. Subject to the notice provisions of the **Davis-Stirling Act**, the **Board** shall adopt architectural procedures for review and approval of architectural applications. In addition, the **Board** may adopt and/or amend guidelines to be used to address architectural alterations. The **Board** or Architectural Committee may require submission of additional plans and specifications or other information prior to approving or disapproving the application or alteration.

Section 11.4. Non-Waiver. It is acknowledged that over time, **Directors** change, aesthetic standards change, and community preferences change. Given that aesthetic standards may evolve over time, it is acknowledged that past approvals are no assurance of current or future approvals for similar alterations. This evolution of standards does not make the exercise of discretion arbitrary or selective. It is the goal of the **Association** to maintain consistency in aesthetic decisions within a reasonable time period. However, approval of any application or alteration shall not be deemed a waiver of any right to deny or approve any similar application or alteration.

Section 11.5. Liability. The **Board**, **Directors** and/or the Architectural Committee shall not be liable to the **Association** or 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, or (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications.

Section 11.6. Architectural Enforcement. For any architectural alteration or other condition or requirement where **Association** approval is necessary, the burden is on the **Owner** to produce written evidence of such approval. Otherwise the **Board** may deem that no approval was given.

11.6(a) Notice of Noncompliance. If the **Board** has determined that an **Owner** is not in compliance with the architectural guidelines, then the **Board** may send notice of such noncompliance to the **Owner**. The notice of noncompliance shall include a specific description of the architectural violation, as well as a proposed remedy and/or course of action. For purposes of this section, noncompliance includes, but is not limited to, failure to obtain **Association** approval, failure to follow the approved plan, failure to comply with architectural guidelines, and/or failure to properly maintain improvements.

11.6(b) Hearing and Determination. Prior to taking disciplinary action against an **Owner** for an architectural violation, the **Association** shall provide the **Owner** with due process pursuant to **Article XII, Section 12.4**. If the **Board** finds that there is no valid reason for the continuing noncompliance, the violation shall be deemed a continuing nuisance, and the **Board** may require the **Owner** to remedy or remove the unapproved architectural alteration.

11.6(c) Association Options for Abating Continuing Nuisances. If the **Owner** does not comply with the **Board's** ruling within any period specified or within any extension of such period as the **Board**, in its discretion, may grant, the **Board** may utilize the general enforcement provisions of this **Declaration**, including removal of the noncomplying improvement or remedying the noncompliance. The costs of any such action(s) shall be levied against the **Owner** as a Reimbursement Assessment.

Section 11.7. Architectural Agreement. The **Association** shall have the right to condition its approval on the execution and recordation of an Architectural Agreement entered into between the **Association** and an **Owner**. Such an Agreement may memorialize the conditions under which an architectural alteration was approved, and the rights and responsibilities of the **Association**, the **Owner**, and future **Owners** of the **Unit**. The **Association** shall provide the **Owner** with a copy of any such recorded Notice. Unless otherwise provided in such an Agreement, the following shall apply to all alterations, regardless of whether expressly included in a separate written agreement: (a) **Owner** will indemnify, hold harmless and defend the **Association**, **Directors**, and manager from any claim arising from or related to the approval of the work and the work itself; (b) **Owner** will be responsible to maintain, repair and replace all aspects of the alteration and/or reimburse the **Association** for such costs; (c) consent to occupy any **Building Common Area** is granted as a "license" which may be revoked by the **Association** for failure to maintain, repair and/or replace any facet of the alteration or failure to comply with the conditions of approval; (d) **Owner** agrees to maintain homeowner property damage and liability insurance and such other insurance as is required by the **Association**; and (e) all of **Owner's** successors will also be bound to the **Owner's** obligations.

ARTICLE XII **ENFORCEMENT OF GOVERNING DOCUMENTS**

Section 12.1. Violation. A violation of the **Governing Documents** shall be defined as a single act or omission occurring on a single day. Any activity or condition which constitutes a public or private nuisance shall also be deemed a violation. Further, any violation of the **Governing Documents** shall be deemed a nuisance. If the detrimental effect of a violation continues for additional days, discipline imposed by the **Association** may include one component for the violation and, according to the **Association's** discretion, a per diem (per day) component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The **Association** shall take reasonable and prompt action to mitigate, repair or avoid the continuing damaging effects of a violation or nuisance occurring within the **Common Area** at the cost of the responsible party.

Section 12.2. Jurisdiction. The **Association** shall have jurisdiction over any **Person** on the **Property** or with rights in the **Property** and any real and/or personal property on the **Property**. This jurisdictional authority shall be subject to the terms, conditions and safeguards provided in the **Governing Documents**. The **Owner** shall be liable for compliance by tenants, other residents, guests or invitees (including the guests or invitees of tenants).

Section 12.3. Enforcement Options. In the event of a breach or violation of any of the **Governing Documents** by any **Person**, the **Board**, for and on behalf of all other **Owners**, may enforce compliance with the **Governing Documents** through the use of such remedies as are deemed appropriate by the **Board** and available in law or in equity, including, but not limited to, the following:

12.3(a) Suspension of Rights. The **Board** may suspend voting rights or the right to use **Recreation Common Area** facilities.

12.3(b) Fines. The **Association** may implement schedules of reasonable fines for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as illegally parked vehicles). If such a fine policy and schedule is adopted by the **Association**, the **Association** shall distribute it to each **Owner**, by personal delivery or first-class mail. The **Board** may levy a reasonable fine in accordance with the **Association's** fine policy and schedule and/or in the range specified in any Notice of Hearing. A fine, while enforceable by lien and/or judicial foreclosure, shall not be the subject of non-judicial foreclosure. In imposing any fine, the **Association**, in its sole discretion, may choose to suspend some or all of the fine for a period of time pending compliance with a directive of the **Association**.

12.3(c) Alternative Dispute Resolution (ADR). In the event of a dispute between **Owners** (or residents), prior to filing legal action, the parties shall comply with the mandatory ADR provisions of the **Davis-Stirling Act** or such other form of ADR as may be agreed upon.

12.3(d) Internal Dispute Resolution Procedure. In the event of a dispute between an **Owner** and the **Association**, prior to filing legal action, the parties shall "meet and confer" in an effort to resolve the dispute pursuant to the provisions of Civil Code section 1363.810 *et seq* or an Internal Dispute Resolution procedure otherwise adopted by the **Board**.

12.3(e) Legal Action. Preserving status quo in the Parkview Terrace neighborhood is an important goal of this **Declaration**. This includes the preservation of aesthetics and the quiet enjoyment of each residence. With the exception of nonpayment of any **Assessment**, the recovery of dollar damages for any violation of the **Governing Documents** is an insufficient remedy. Enforcement of the **Governing Documents** against any **Owner** or resident may be undertaken by appropriate legal proceedings instituted by any **Owner**, the **Association**, or both. Legal proceedings may include the following:

12.3(e)(1) an action for mandatory injunction (a court order or judgment which requires someone to do something);

12.3(e)(2) an action for prohibitory injunction (in which the court prohibits specified behavior);

12.3(e)(3) an action for declaratory relief (such as interpretation of any provision of the **Governing Documents**); and/or

12.3(e)(4) A claim for damages, including prospective costs and costs actually incurred in obtaining compliance.

No action shall be filed unless or until there is compliance with the Alternative Dispute Resolution provisions of the **Davis-Stirling Act**.

12.3(f) Self Help. The **Association** shall have the right to enter any **Unit** to gain compliance with the **Governing Documents**, including but not limited to the following:

12.3(f)(1) Maintenance, Repair and Replacement. If the **Association** reasonably finds a **Unit** requires maintenance, repair or replacement of any component or condition for which the **Owner** is responsible, the **Board** may direct the **Owner** to perform the work and if the **Owner** fails or refuses to do so, the **Association** may, after notice to the **Owner**, utilize these provisions, and cause the work to be performed. The **Association** may collect the cost by adding it to the **Assessment** for that **Unit** and collecting it in the same manner as a Reimbursement **Assessment**.

12.3(f)(2) Removal of Nuisance. The **Association** shall have authority to enter a **Unit** to cause the removal of a nuisance from the **Property**. This power does not relieve the **Association** of its duty to comply with the due process and notice requirements of the **Governing Documents**, unless there is immediate peril to persons or property.

12.3(g) Imposition of Reimbursement Assessment. The **Association** may levy a Reimbursement **Assessment** as provided for in **Article IV, Section 4.1(d)** hereof.

12.3(h) Referral to Governmental Agency. The **Association**, in its sole discretion, may refer any enforcement action to the appropriate governmental agency with jurisdiction, such as the police department, fire department, health department or other proper agency.

12.3(i) Notices to Mortgagees. If any **Owner** is in default under any provisions of the **Governing Documents**, the **Association** may notify the **Owner's Mortgagee** of record of such default.

Section 12.4. Implementation. Prior to taking disciplinary action against an **Owner**, the **Association** must provide the **Owner** with due process as set forth in this **Section 12.4**.

12.4(a) Notices. Notices and requests must be in writing. Notices from the **Association** shall include at a minimum, the date and time for the meeting at which the **Board** will consider disciplinary action, a brief description of the action or inaction constituting the alleged violation and a reference to the relevant **Governing Document** provision or other authority, and a statement that the **Owner** has a right to attend and may address the **Board**.

12.4(b) Meeting re: Discipline. The **Association** will notify an **Owner** in writing, by either personal delivery or first-class mail, at least 10 days prior to any meeting at which the **Board** is considering or imposing discipline (including the levying of fines) upon an **Owner**. The **Owner** may request that the issue be considered in Executive Session.

12.4(c) Notice of Hearing Results. If the **Board** imposes discipline on an **Owner**, the **Association** will provide a notice of the outcome of the disciplinary action by either personal delivery or first-class mail to the **Owner** within 15 days following the action.

12.4(d) Owner Standing. Any **Owner** shall also have such rights of enforcement as exist by virtue of Civil Code section 1354 (including direct enforcement of this **Declaration**) or otherwise by law.

Section 12.5. Miscellaneous.

12.5(a) Cumulative Remedies. The respective rights and remedies provided by this **Declaration** or by law shall be cumulative. The exercise of any right(s) or remedy(ies) shall not affect the exercise, at the same or at different times, of any other 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**.

12.5(b) Non-Waiver. The failure of any **Owner**, the **Board**, any Committee, 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.

12.5(c) Rules re: Disciplinary Proceedings. The **Association** shall be entitled to adopt rules and/or policies that further the efficient conducting of disciplinary proceedings. Such rules and/or policies shall form a part of the **Governing Documents**.

12.5(d) Noncompliance with Procedure. Failure by the **Association** to technically comply with these procedures, or any rules or policies adopted, shall not be fatal to the process so long as there is no significant prejudice to the **Person** who has been charged with a violation. Appearance at a hearing shall constitute a waiver of any defect in notice.

12.5(e) Fees and Costs of Enforcement. The Association shall be entitled to its actual legal fees and costs incurred in the enforcement of the **Governing Documents** and other costs, and may levy same as a Reimbursement **Assessment**. (Recovery of fees and costs related to delinquent **Assessments** are addressed in **Article IV**.)

ARTICLE XIII
GENERAL PROVISIONS

Section 13.1. Severability. Should any provision in this **Declaration** be void or become invalid or unenforceable in law or in equity by judgment or court order, the remaining provisions shall be and remain in full force and effect.

Section 13.2. Interpretation. The provisions of this **Declaration** and the other **Governing Documents** shall be liberally construed to effectuate its purpose of facilitating the operation of all **Buildings** as part of a uniform **Condominium Project**.

Section 13.3. Term of Declaration. The provisions of this **Declaration** shall continue and be effective until January 1, 2019, after which date this **Declaration** shall be automatically extended for successive periods of ten (10) years, until it is terminated by the **Owners** in accordance with the law. This **Declaration** may be amended as provided below.

Section 13.4. Amendment. This **Declaration** may be amended by approval of **Owners** holding sixty percent (60%) of the total votes of **Owners** of **Condominiums** bound by this **Declaration**. Said amendment shall be effective upon recordation in the Office of the County Recorder of the County of Marin. Notice of approval shall be given to all **Owners** but, at the **Board's** discretion, need not include the full document previously submitted and voted upon, unless requested by an **Owner**.

Section 13.5. Conflicts. In the case of any conflict among **Governing Documents**, the sequence of priority shall be **Declaration**, **Articles**, **Bylaws**, then rules, policies and guidelines. In the event of any inconsistencies, ambiguities or omissions in this **Declaration**, the **Board** may adopt guidelines or policies to reconcile, supplement or correct such conflicts.

Section 13.6. Notices. Notices and requests must be in writing. General notices and requests may be given by any method reasonably calculated to give actual notice (see **Article XII, Section 12.4(a)** as to disciplinary action). If the notice or request is given by mail, it shall be sent by first-class and/or certified mail. If the **Association** uses the mail, it may send such notice to the last address of the **Person** shown in the records of the **Association**.

Section 13.7. Owner Responsibility. Each **Owner** shall be liable to the **Association** for any damage to the **Common Area**, or areas which the **Association** must maintain, repair or replace caused directly or indirectly by the **Owner** or his or her family, pets, guests, invitees, tenants, the guests or invitees of any tenant (including but not limited to inadvertence, failure to act, active or passive negligence or willful misconduct or otherwise). Each **Owner** shall protect, defend, hold

harmless and indemnify the **Association** and **Directors** from any third party claim arising out of such conduct.

Section 13.8. Indemnification by Association of Directors and Officers. The **Association** shall, to the fullest extent permitted by law, protect, defend and indemnify its past and present **Directors**, Officers and Committee members from potential liability for their activity while acting in good faith and engaged in **Association** business. Such protection may include that provided for in (a) the **Association's** insurance, including the liability insurance in the case of damage to person or property, and/or (b) the Corporations Code, specifically section 7237. In the event that any claim of indemnification is made to the **Association** by such individual, the **Association** shall, in a timely way, tender the claim to its broker and/or insurance carriers. To the extent that the individual seeking indemnification has exposure to any uninsured loss, the **Association** shall also submit the matter to its counsel for a legal opinion as to **Association** obligations.

Section 13.9. Advancement of Expenses. To the fullest extent permitted by law, the **Association** shall, consistent with Corporations Code section 7237(f), advance all costs of defense of an accused Officer, **Director** or Committee member, if such costs of defense are not provided by insurance.

Section 13.10. Limitations on Personal Liability of Individual Directors/Officers.

13.10(a) No action shall be brought against an individual **Director** or Officer unless expressly permitted by the provisions of Civil Code section 1365.7.

13.10(b) No suit or action against a **Director**, Officer or other volunteer of the **Association** personally shall be sustainable in any court unless commenced within twelve (12) months of the date claimant knew or should have known of alleged misconduct and/or the inception of damage or injury.

Section 13.11. Davis-Stirling Act. Given that the statutory law applicable to homeowner associations is frequently amended by the legislature and an overhaul (simplification and clarification) may be forthcoming, and given the **Association's** desire to keep the provisions of the **Declaration** consistent with applicable statutory law, the **Association** may find it useful to update the mandatory requirements of the **Davis-Stirling Act** that are included in this **Declaration** (including any Exhibits). After consultation with counsel, by unanimous endorsement of the sitting **Directors**, and thirty (30) day notice to **Owners** before adopting, the **Board** may periodically update the provisions of this **Declaration**, including any Exhibits, to reflect changes in the **Davis-Stirling Act** which would otherwise be in conflict with and would pre-empt these provisions. The **Board** may also update any numeric references as statutes are renumbered. Any such updated provisions shall be (1) recorded in the Official Records of Marin County and cross-reference these **CC&Rs** and (2) distributed to all **Owners**.

Section 13.12. Rights of First Lenders. No breach of any of the covenants, conditions, and restrictions herein contained, nor the enforcement of any provisions hereof, shall render invalid the

lien of any first **Mortgage** (meaning a **Mortgage** with first priority over any other **Mortgage**) on any **Condominium** made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any **Owner** whose title is derived through foreclosure or trustee's sale, or otherwise.

Section 13.13. Statutory References. Reference to any specific Code section in the **Governing Documents** shall include any successor provisions in the event they are subsequently revised, amended, or altered.

Section 13.14. Variances. The **Board** may, upon unanimous approval of all five (5) **Directors**, allow reasonable variances and adjustments of this **Declaration** in order to overcome difficulties and prevent unnecessary hardships in the application of these provisions. However, such variances shall only be granted which conform to the intent and purposes of this **Declaration**. Further, in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements within the **Property**. The **Board** may, in its sole discretion, impose limitations on any variance granted, including terms, conditions and duration. Where notice of a request for a variance has been given to **Owners** potentially affected and an **Owner** fails to object (according to the terms of the notice), that **Owner** shall be barred from later contesting the decision of the **Association**. A written record must be kept by the **Owner** and any successor of all such requests, proceedings and approvals. If the **Owner** is unable to produce such evidence, there shall be a presumption that no variance was granted.

Section 13.15. Transition Provisions. In order to facilitate the transition from the provisions contained under the **Former Declarations** to those contained in these **Governing Documents**, the **Board** shall have the authority, in its sole discretion, to grandfather certain activities within, uses of, or conditions on the **Property** for a period of eighteen (18) months following the date of recordation of these **CC&Rs**. The granting of any such grandfathered activity, use or condition shall be in writing and made a part of the **Association's** records.

Section 13.16. Contingent Approval and Transitioning.

~~13.16(a) Notwithstanding any provision to the contrary, all provisions of this Declaration referring to or affecting a merged Association shall be of no force and effect until approved by Owners of at least five (5) Buildings. If fewer than five (5) Building Associations approve consolidation into the merged Association, only those provisions relating to the governance of the Recreation Common Area and other Common Area of the Parkview Recreation Association shall be in effect unless or until there are merged Building Associations in the future:~~²

² Contemporaneous with the approval of these **CC&Rs** on December 8, 2009, **Owners** of the following **Building** Associations agreed to merge their unincorporated **Building** Associations into this **Association**: Lots 4 through 10, inclusive, and Lot 12. The remaining **Building** Association (Lot 11) may merge in the future as provided in **CC&R** Section 3.14.

13.16(b) Any Building Association that does not approve the amended Declaration (or ~~all Buildings should fewer than five (5) Buildings approve consolidation~~) will operate independently (except for the pool area) and all references to the Association shall exclude such Building Association(s).³

13.16(c) If fewer than all Building Associations approve of the merger, then this Declaration shall be interpreted and construed to facilitate the operation of the different interests. This Association will continue to manage the Recreation Common Area if sixty percent (60%) of all owners approve this amendment.

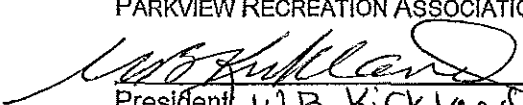
CERTIFICATE OF AMENDMENT


The Association desired to make substantial changes to the CC&Rs pursuant to the amendment provisions and Civil Code section 1355, and on December 8, 2009 the Owners voted and approved the language of said changes.

This Amended Declaration of Covenants, Conditions and Restrictions consolidates and supersedes the Former Declarations.

The undersigned declare, under penalty of perjury, under the laws of the State of California, that the matters set forth in this Amendment are true and correct of their own knowledge. Executed at San Rafael, California on 4-7, 2010.

PARKVIEW RECREATION ASSOCIATION, INC.


President: W.B. Kirkland


Secretary: Peter J. Harwood

ATTACH NOTARY CERTIFICATE(S)

Glenn H. Youngling, PLC
1108 Irwin Street, San Rafael, California 94901
(415) 454-1090

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³ Contemporaneous with the approval of these CC&Rs on December 8, 2009, Owners of the following Building Associations agreed to merge their unincorporated Building Associations into this Association: Lot 4 through 10, inclusive, and Lot 12. The remaining Building Association (Lot 11) may merge in the future as provided in CC&R Section 3.14.

ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Marin } SS.

On April 6, 2010, before me, Karen Baldwin, Notary Public,
DATE
personally appeared W.B. Kirkland, who proved to me on the

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



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

WITNESS my hand and official seal.

Karen Baldwin
NOTARY'S SIGNATURE

PLACE NOTARY SEAL IN ABOVE SPACE

OPTIONAL INFORMATION

The information below is optional. However, it may prove valuable and could prevent fraudulent attachment of this form to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- INDIVIDUAL
- CORPORATE OFFICER _____ TITLE(S)
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

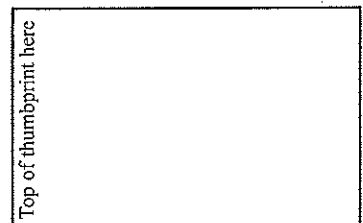
DATE OF DOCUMENT

SIGNER (PRINCIPAL) IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

RIGHT
THUMBPRINT
OF
SIGNER

OTHER

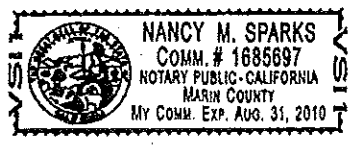


ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Marin } SS.

On 4.7.10, before me, Nancy M. Sparks, Notary Public,
DATE
personally appeared Peter J. Haubold, who proved to me on the

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



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

WITNESS my hand and official seal.

Nancy M. Sparks
NOTARY SIGNATURE

PLACE NOTARY SEAL IN ABOVE SPACE

OPTIONAL INFORMATION

The information below is optional. However, it may prove valuable and could prevent fraudulent attachment of this form to an unauthorized document.

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- TRUSTEE(S)
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DESCRIPTION OF ATTACHED DOCUMENT

CCNY
TITLE OR TYPE OF DOCUMENT

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DATE OF DOCUMENT

SIGNER (PRINCIPAL) IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

RIGHT
THUMBPRINT
OF
SIGNER

OTHER

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Parkview Recreation Association, Inc.

**Allocation of Special Assessments
and Reserve Portion of Regular Assessments**
(Excluding Recreation Common Area Assessments)
(Article IV, Section 4.1(a) and 4.3)

With the exception of Recreation Common Area Assessments, all Special Assessments, as well as that portion of the Annual Assessment which is for reserve expenses (including but not limited to exterior painting, roofing, balconies, and patios) shall be allocated proportionately among the Units as set forth below.

	<u>Unit Type</u>	<u>Assessment Allocation</u>		<u>Unit Type</u>	<u>Assessment Allocation</u>
<u>LOT 4</u>			<u>LOT 9 *</u>		
161 Pixley Ave.	Balcony	2.669%	101 Pixley Ave.	Patio	1.823%
163 Pixley Ave.	Patio	1.989%	103 Pixley Ave.	Patio	1.823%
165 Pixley Ave.	Balcony	2.669%	105 Pixley Ave.	Patio	1.823%
167 Pixley Ave.	Balcony	2.669%	107 Pixley Ave.	Patio	1.823%
			109 Pixley Ave.	Patio	1.823%
<u>LOT 5</u>			111 Pixley Ave.	Balcony	2.184%
173 Pixley Ave.	Balcony	2.669%	113 Pixley Ave.	Balcony	2.184%
175 Pixley Ave.	Patio	1.989%	115 Pixley Ave.	Balcony	2.184%
177 Pixley Ave.	Balcony	2.669%	117 Pixley Ave.	Balcony	2.184%
179 Pixley Ave.	Balcony	2.669%	119 Pixley Ave.	Balcony	2.184%
<u>LOT 6</u>			<u>LOT 10</u>		
149 Pixley Ave.	Balcony	2.669%	2 Redwood Ave.	Balcony	2.669%
151 Pixley Ave.	Patio	1.989%	4 Redwood Ave.	Patio	1.989%
153 Pixley Ave.	Balcony	2.669%	6 Redwood Ave.	Balcony	2.669%
155 Pixley Ave.	Balcony	2.669%	8 Redwood Ave.	Balcony	2.669%
<u>LOT 7</u>			<u>LOT 11</u>		
137 Pixley Ave.	Balcony	2.669%	18 Redwood Ave.	Balcony	2.669%
139 Pixley Ave.	Patio	1.989%	20 Redwood Ave.	Patio	1.989%
141 Pixley Ave.	Balcony	2.669%	22 Redwood Ave.	Balcony	2.669%
143 Pixley Ave.	Balcony	2.669%	24 Redwood Ave.	Balcony	2.669%
<u>LOT 8</u>			<u>LOT 12</u>		
125 Pixley Ave.	Balcony	2.669%	34 Redwood Ave.	Balcony	2.669%
127 Pixley Ave.	Patio	1.989%	36 Redwood Ave.	Patio	1.989%
129 Pixley Ave.	Balcony	2.669%	38 Redwood Ave.	Balcony	2.669%
131 Pixley Ave.	Balcony	2.669%	40 Redwood Ave.	Balcony	2.669%
TOTAL					100.0%

* Lot 9 units with back balcony designated as "Balcony" unit