

### **ATTACHMENT**

**Attached is the document you (or someone on your behalf) requested. As required by Section 12956.1(b)(1) of the California Government Code, please take note of the following:**

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

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CERTIFICATE OF ADOPTION OF AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR MONTECITO SHORES HOMEOWNERS ASSOCIATION

Charles A. Ott, Jr. and Michael Donald certify  
that:

1. They are the duly elected and acting  
President and Assistant Secretary of MONTECITO SHORES HOME-  
OWNERS ASSOCIATION, a California nonprofit mutual benefit  
corporation (hereinafter referred to as the "Association"),  
formed upon the filing of its Articles of Incorporation with  
the Secretary of State on or about October 3, 1973.

2. The Association is a nonprofit corporation  
formed to administer that certain Declaration of Covenants,  
Conditions and Restrictions for Montecito Shores Condo-  
miniums, which document was recorded April 23, 1974, as  
Instrument No. 14228 in Book 2512, Page 381 of the Official  
Records of the County of Santa Barbara, and modified by a  
First Amendment to Declaration of Covenants, Conditions and  
Restrictions for Montecito Shores Condominium, recorded  
June 3, 1974 as Instrument No. 20060 in Book 2519, Page 97  
of Said Official Records (hereinafter collectively referred  
to as the "Declaration").

3. Pursuant to ARTICLE XIV of the Declaration, the members of the Association holding at least seventy-five percent (75%) of the voting power entitled to vote thereon adopted the following Amended and Restated Declaration of Covenants, Conditions and Restrictions for Montecito Shores Homeowners Association (hereinafter referred to as the "Amended Declaration"), which Amended Declaration was also approved by the holders of the beneficial interests in seventy-five percent (75%) of all first lien mortgages and deeds of trusts then of record against the condominium project or any portion thereof, or interest therein. The Amended Declaration amends and fully supersedes the Declaration in its entirety.

4. The text of the Amended Declaration is as follows:

MONTECITO SHORES HOMEOWNERS ASSOCIATION

Amended and Restated Declaration of  
Covenants, Conditions and Restrictions

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AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR MONTECITO SHORES HOMEOWNERS ASSOCIATION

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Montecito Shores Homeowners Association (the "Amended Declaration of CC&RS") is made on the date hereinafter set forth by the Owners of Condominiums within the Condominium Project commonly known as "Montecito Shores."

W I T N E S S E T H :

WHEREAS, Vista del Montecito, a California limited partnership, made a Declaration of Covenants, Conditions, and Restrictions for Montecito Shores Condominium, which affects and modifies certain property known as Lot 1 of Tract 11886 as shown on map recorded in Book 90, Pages 88 to 91, inclusive, of Maps in the Office of the County Recorder of Santa Barbara County, California, and an easement for roadway, public utility and sewer purposes over certain real property described therein (the "Property"), which was recorded on April 23, 1974, as Instrument No. 14228 in Book 2412, Page 381 of the Official Records in the Office of the County Recorder of Santa Barbara County, California, and which was modified by a First Amendment to Declaration of Covenants, Conditions, and Restrictions for Montecito Shores Condominium, recorded on June 3, 1974 as Instrument No. 20060 in Book 2519, Page 97 of said Official Records (which two (2) documents are collectively referred to as the "Original Declaration of CC&RS"); and

WHEREAS, the Montecito Shores Homeowners Association (the "Association"), a non-profit mutual benefit corporation, was established for the primary purpose of governing the Project and carrying out the provisions of the Original Declaration of CC&RS; and

WHEREAS, the developer of the Condominium Project has fully sold all Units within the Condominium Project rendering all references to the "Declarant" in the Original

Declaration of CC&RS inapplicable, and numerous changes have occurred in the law governing condominiums projects, and the Association has determined that simplification of language and structure will be beneficial, all making it desirable to amend and restate the Original Declaration of CC&RS;

NOW, THEREFORE, the Association declares that the Property and the Condominium Project described herein is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, occupied, and used subject to the following covenants, conditions, and restrictions, all of which are declared to be in furtherance of a plan of condominium ownership as described in Sections 1350-1372 of the California Civil Code for the subdivision, improvement, protection, maintenance, and sale of Condominiums within the Condominium Project, and all of which are declared to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the Condominium Project. All of the covenants, conditions, and restrictions set forth herein shall run with the land, shall be binding on and shall inure to the benefit of all Persons having or acquiring any right, title, or interest in the Condominium Project, and shall be binding upon and inure to the benefit of the successors in interest of such Persons. The Association further declares that it is its express intent that this Amended Declaration of CC&RS satisfy the requirements of Section 1353 of the California Civil Code.

#### ARTICLE I DEFINITION OF TERMS

Unless expressly provided otherwise, the following terms as used herein shall have the following meanings:

1.1 Amended Declaration of CC&RS. This Amended Declaration of Covenants, Conditions and Restrictions.

1.2 Articles. The Association's Articles of Incorporation as they may be amended from time to time.

1.3 Association. Montecito Shores Homeowners Association, a California nonprofit mutual benefit corporation, and its successors and assigns. Except as otherwise



provided in this Amended Declaration of CC&RS, the Bylaws, the Association Rules, or prevailing law, the Association shall act through the Board.

1.4 Association Rules. The rules and regulations adopted by the Association, acting through the Board, as they may be amended from time to time.

1.5 Board. The board of directors of the Association.

1.6 Bylaws. The duly adopted Bylaws of the Association as they may be amended from time to time.

1.7 Common Area. The entire Condominium Project excepting all Units.

1.8 Condominium. The estate in real property conveyed by the grant deed to a grantee as defined by Section 783 of the California Civil Code, consisting of an undivided interest as a tenant in common in the Common Area, together with a separate fee interest in a Unit and any other separate interests in the Real Property as are described in this Amended Declaration of CC&RS, in the Condominium Plan, or in the deed conveying the condominium.

1.9 Condominium Plan. The condominium plan respecting the Condominium Project recorded pursuant to California Civil Code Section 1352 in Book 104, Pages 1 through 41, inclusive, of Condominiums in the Office of the Recorder of Santa Barbara County on April 23, 1974, and any amendments to the plan.

1.10 Condominium Project. The condominium development described in the Condominium Plan and located on the Property.

1.11 Invitee. Any guest, relative, friend, social or business invitee, employee, agent, or trades person visiting a Unit but not occupying the Unit as a residence.

1.12 Member. Every Person who holds a membership in the Association. Every Owner is a member. Where there is more than one (1) Owner of a Unit, all Owners are Members; however, as provided in Section 1.20 and the Bylaws there is only one (1) vote per Unit.

1.13 Mortgage. A deed of trust as well as a mortgage, both of which are security for the performance of an obligation.

1.14 Mortgagee. A beneficiary under a Mortgage. If there is more than one (1) beneficiary under a Mortgage, the decision of the majority shall control on any decision to be made hereunder.

1.15 Owner. The record holder(s) of the fee title to any Condominium and the vendee/contract purchaser(s) in possession pursuant to a Real Property Sale Contract as defined in California Civil Code Section 2985 et. seq. "Owner" does not include a vendor/contract seller pursuant to a Real Property Sale Contract or any Person having an interest in a Condominium merely as security for performance of an obligation.

1.16 Permitted Resident. A Person occupying a Unit as a resident other than the Owner, including a lessee, renter, family member, or guest.

1.17 Person. An individual, corporation, partnership, trust, association, or any other type of entity.

1.18 Property. Lot 1 of Tract 11886 as shown on Maps recorded in Book 90, pages 88 to 91, inclusive, of Maps in the Office of the County Recorder of Santa Barbara County, California, and an easement for roadway, public utility and sewer purposes over that certain real property beginning at the Southwest corner of the tract of land described in the deed to Mutual Savings and Loan Association, a California corporation, recorded December 13, 1971 as Instrument No. 40304, in Book 2376, Page 140 of Official Records of said County, being a point at the beginning of a curve, concave to the West, having a radius of 292.00 feet, a delta of 7°25'14" and whose radial center bears North 78°31'46" West; thence Northerly along the arc of said curve, 37.82 feet to the end thereof; thence North 4°03' East, 30.03 feet to the Northwest corner of said Mutual Savings and Loan Association tract of land; thence North 69°39'50" West, 17.70 feet; thence South 4°03' West, 74.00 feet; thence North 88°57'10" East, 14.60 feet; more or less, to the point of beginning.

1.19 Unit. The elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Condominium Project, such Units and their

respective boundaries being shown and particularly described in the Condominium Plan and this Amended Declaration of CC&RS. Unit does not include other interests in real property that are less than estates in real property, such as nonexclusive easements. In interpreting deeds and plans, the existing physical boundaries of a Unit or of a Unit reconstructed in substantial accordance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan, regardless of any minor variance between boundaries shown on the Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Amended Declaration of CC&RS, in the Condominium Plan, in any deed, or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements.

1.20 Voting Power of the Association. A number of votes equal to the total number of Condominiums subject to this Amended Declaration of CC&RS. There shall be one (1) vote for each Condominium. If there is more than one (1) Owner of a Condominium the decision of the majority shall control on any vote to be cast.

## ARTICLE II

### DESCRIPTION OF LAND AND IMPROVEMENTS

The Condominium Project is improved by eleven (11) residence buildings located on the Property each containing nine (9) Units. The Property has within its boundaries various Units and the Common Area as shown on the Condominium Plan. The boundaries of each Unit shall be as set forth in the Condominium Plan. The Common Area consists of the Condominium Project excepting the Units. An undivided interest, as a tenant in common, in the Common Area, is conveyed to each Owner of a Condominium along with his or her Unit to comprise his or her Condominium.

ARTICLE III  
MEMBERSHIP

3.1 Membership. Every Owner is a Member of the Association. The purchaser of any Condominium in the Project, by the acceptance of a deed therefor, or by the signing of a real property sales contract to purchase such Condominium, consents to become a Member of the Association, to abide by this Amended Declaration of CC&RS, the Articles, the Bylaws, and the Association Rules and to accept all of the benefits and obligations of membership. Membership shall be appurtenant to and may not be separated from the ownership of a Condominium. Ownership of a Condominium shall be the sole qualification for membership.

3.2 Transfer of Membership. Any conveyance of a Condominium shall be presumed to convey the entire interest of an Owner, including his or her membership in the Association. However, any Owner of a Condominium may create a co-tenancy in his or her ownership of the Condominium with any other Person(s). Each Owner shall remain a Member of the Association until his or her ownership or ownership interest in all Condominiums in the Condominium Project ceases, at which time his or her membership in the Association shall automatically cease.

3.3 Members' Rights and Duties. Each Member shall have the rights, duties and obligations set forth in this Amended Declaration of CC&RS, the Articles, the Bylaws, and the Association Rules as they may be amended from time to time.

3.4 Members' Meeting and Voting Rights. Meetings of the Members, the requirements of notice therefor, and the quorum and voting requirements thereat, except as otherwise provided in this Amended Declaration of CC&RS, shall be as provided in the Bylaws.

ARTICLE IV  
PROPERTY RIGHTS AND COMMON INTERESTS

4.1 Ownership of a Condominium. Ownership of each Condominium within the Condominium Project shall

include a Unit, the respective undivided interest in the Common Area (which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a Condominium remains in effect), membership in the Association, a revocable license to exclusively use certain portions of the Common Area (as described in the following paragraph) and any nonexclusive easement(s) appurtenant to such Unit over the Common Area as specified in Section 4.3.

The license referred to above is a revocable license to the use of two (2) parking spaces, two (2) storage spaces in the basement of the building in which the Unit is located, and two (2) overhead locker spaces in the garage of the building in which the Unit is located. This license is subject to revocation by the Association. Further, the Association has the exclusive right, power and authority to assign parking, storage and locker spaces to Owners upon such terms and conditions as the Association shall from time to time establish. No parking, storage or locker space may be further assigned, transferred, rented, leased, hypothecated or encumbered separate from the Condominium to which it is originally assigned without the prior written consent of the Association.

4.2 Percentage of Undivided Interest in the Common Area. The undivided interest in the Common Area hereby established and which shall be conveyed with each Unit is as follows:

<u>Condominium Unit No.</u>	<u>Undivided Interest In Common Area (%)</u>	<u>Condominium Unit No.</u>	<u>Undivided Interest In Common Area (%)</u>
1	1.6630	13	1.6630
2	1.6630	14	1.6630
3	1.6014	15	1.6014
4	1.2072	16	1.2072
5	1.1456	17	1.1456
6	1.6876	18	1.6876
7	1.6260	19	0.9731
8	1.6260	20	1.0717
9	1.5644	21	1.2934
10	1.1702	22	1.1333
11	1.1086	23	1.0471
12	1.6383	24	1.4166

<u>Condominium Unit No.</u>	<u>Undivided Interest In Common Area (%)</u>	<u>Condominium Unit No.</u>	<u>Undivided Interest In Common Area (%)</u>
25	0.9362	63	0.7514
26	1.0471	64	0.8007
27	1.2565	65	0.7637
28	1.1086	66	0.8500
29	1.0101	67	0.8253
30	1.3796	68	0.7884
31	0.9855	69	0.7884
32	1.0963	70	0.8376
33	1.2934	71	0.8130
34	1.1579	72	0.9116
35	1.0594	73	0.7145
36	1.4783	74	0.7391
37	0.9239	75	0.7268
38	1.0101	76	0.7637
39	0.9239	77	0.7637
40	0.9731	78	1.1702
41	0.9239	79	0.7021
42	0.9855	80	0.7145
43	0.8869	81	0.7021
44	0.9608	82	0.7391
45	0.8869	83	0.7514
46	0.9485	84	1.1333
47	0.8869	85	0.7637
48	0.9362	86	0.7637
49	0.9362	87	0.7514
50	1.0717	88	0.7761
51	0.9239	89	0.7885
52	0.9978	90	1.1702
53	0.9239	91	0.6775
54	1.0224	92	0.6898
55	0.8007	93	0.7637
56	0.7637	94	0.6529
57	0.7637	95	0.6652
58	0.8253	96	0.7391
59	0.7884	97	0.6898
60	0.8869	98	0.7021
61	0.7761	99	0.7761
62	0.7391		

4.3 Owners' Non-Exclusive Easements of  
Enjoyment. Subject to the limitations and restrictions  
described elsewhere in this Amended Declaration of CC&RS,  
including, but not limited to, Article V, every Owner

of a Condominium shall have a non-exclusive easement of use and enjoyment in, to, and throughout the Common Area of the Condominium Project and for ingress and egress over and through the Common Area. Each such easement shall be appurtenant to and pass with the title to every Unit.

4.4 Delegation of Rights to Permitted Residents. Subject to this Amended Declaration of CC&RS, the Bylaws and the Association Rules, any Owner may delegate his or her rights of use and enjoyment in the Condominium Project, including any recreational facilities to his or her Permitted Residents, and to such other Persons as may be permitted by the Association Rules. An Owner whose Unit is occupied by a Permitted Resident, and the family, guests, and invitees of such Owner shall not be entitled to use and enjoy the recreational facilities of the Condominium Project while such Unit is occupied by the Permitted Resident. Instead, the Permitted Resident, while occupying such Unit, shall be entitled to use and enjoy the recreational facilities of the Condominium Project and can delegate the rights of such use and enjoyment in the same manner as if such Permitted Resident were the fee Owner of such Unit during the period of his or her occupancy.

Each Owner shall notify the secretary of the Association in writing of the names of any Permitted Resident of such Owner's Unit. Each Owner or Permitted Resident shall also notify the secretary of the Association of the names of all Persons to whom such Owner or Permitted Resident has delegated any rights of use and enjoyment in the Condominium Project and the relationship that each such Person bears to the Owner or Permitted Resident. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of the Owners.

4.5 Minor Encroachments. If any portion of the Common Area encroaches on any Unit or if any portion of a Unit encroaches on the Common Area, regardless of the cause, or if any structure containing a Unit is partially or totally destroyed and then rebuilt and any encroachment results, a valid easement exists for such encroachment and for the

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maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements.

4.6 Easements Granted by Association. The Association shall have the power to grant to any third party an easement or right-of-way in, on, over, or under the Common Area for the purpose of constructing, erecting, operating, or maintaining utilities and public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to a Condominium, expressly consents to such easement or rights of way. However, no such easements may be granted if it would interfere with the use, occupancy or enjoyment by any Owner of his or her Unit, any exclusive easements over any Common Area appurtenant to the Unit, or the recreational facilities of the Condominium Project.

ARTICLE V  
RIGHTS, DUTIES AND POWERS OF THE ASSOCIATION

5.1 Association Action and Management. The Association is charged with the duties and invested with the powers set forth in the Articles, the Bylaws, and this Amended Declaration of CC&RS, including but not limited to control and maintenance of the Common Area and any Common Area facilities. Except as to matters requiring the approval of the Members as set forth in this Amended Declaration of CC&RS or the Bylaws, the affairs of the Association shall be conducted by the Board and its officers. Meetings of the Board, the requirements of notice therefor, and the quorum and voting requirements thereat shall, except as otherwise provided in this Amended Declaration of CC&RS, be as provided in the Bylaws.

5.2 Powers of Association. The Association shall have all the powers of a corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject only to such limitations as are set forth in the Articles, Bylaws and this Amended Declaration of CC&RS. In addition to any other enforcement rights described herein and in the Bylaws and the Association Rules, or authorized by law and subject to any statutory or decisional restrictions on the Association's enforcement rights, the



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Association shall have the power to perform any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation, the following:

5.2.1 Assessments. To establish, fix, levy, and collect regular and special assessments against the Owners of Condominiums and to enforce payment of such assessments in accordance with the provisions of this Amended Declaration of CC&RS.

5.2.2 Association Rules. To adopt, amend, repeal, and enforce such rules and regulations as it deems necessary or appropriate. The Association Rules shall govern the use, condition, maintenance, renovation, and alteration of Units, and the use of the Common Area including, but not limited to, any recreational facilities, streets, sidewalks, and common parking areas by the Owners, their Permitted Residents, and Invitees. The Association Rules may, among other things, impose a limit on the number of guests of an Owner or impose reasonable admission and other fees to Persons other than Owners and their Permitted Residents for use of the Common Area. In enforcing the Association Rules, the Association shall have the right and power to impose penalties against violators including the suspension of the right to vote and the right to use the Common Area, and the imposition of fines. The imposing of such suspensions and the levying and collection of such fines shall be as set forth in this Amended Declaration of CC&RS and in the Association Rules. Any such Association Rules shall have prospective application only, and shall not apply retroactively. No rules shall be effective unless in writing. A copy of all rules in effect shall be regularly posted in a conspicuous place in the Condominium Project, such as in the Manager's office. No Association Rules shall take effect sooner than thirty (30) days from the date of adoption by the Board, provided that if the Board unanimously agrees that the rule is an emergency measure, and so states in the rule, it may take effect immediately upon adoption. Notwithstanding the foregoing, a restatement or rewording of existing Associations Rules shall not be considered the adoption of new rules or an amendment to the rules such as to delay the effective date thereof.

No rule shall subject an Owner to a fine, a suspension of rights and privileges, or other Board action unless a copy of said rule has been regularly posted as indicated above. A current copy of the Association Rules shall be supplied to any Owner upon the Board's receipt of a written request therefor. The adoption of Association Rules shall not require approval of the Owners, but the Owners may, at a special meeting called for that purpose, upon the approval of seventy-five percent (75%) of the Voting Power of the Association, rescind and nullify any rule adopted by the Board. Should there be any conflict between any Association Rules and any other provision of this Amended Declaration of CC&RS, the Articles, or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Amended Declaration of CC&RS, the Articles, or the Bylaws to the extent of any inconsistency.

5.2.3 Enforcement; Hearings; Actions. To suspend voting rights, to suspend use privileges of the Common Area, or to impose monetary fines against any Owner or other Person entitled to exercise such rights or privileges for any violation of this Amended Declaration of CC&RS, the Articles, Bylaws, Association Rules, or Board resolutions. In the event that the alleged violation results from the act or omission of a Permitted Resident or Invitee of any Owner, the action described above may be taken as to the Owner or such other Person. No such action shall be taken by the Board prior to thirty (30) days after giving written notice of the alleged violation and proposed action to the particular Person.

The alleged violator may protest the proposed suspension or fine by filing a written protest with the Board within thirty (30) days after date of the written notice. Any Person filing such a protest shall be entitled to a hearing before the Board prior to the institution of the suspension or fine. Such hearing shall be called within a reasonable time after the filing of the protest. At such hearing, the alleged violator and the Board shall be permitted to present evidence on their behalfs, and to call witnesses to controvert any allegations which have been made. On the basis of the evidence presented at the hearing, or

through any written protest filed with the Board, the Board shall determine whether or not a violation has occurred, and if so, whether a suspension of voting rights or use of the Common Area or a fine should be imposed. Failure by the Person charged with the violation to protest or to appear at any requested hearing shall be deemed a confession by such Person that the violation described in the notice has occurred, and the Board shall be entitled to impose an appropriate penalty.

The Association also has the power, in its own name and on its own behalf, or on behalf of any Owner who consents, to commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of this Amended Declaration of CC&RS, the Articles, Bylaws, or of the Association Rules or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of those provisions.

The Association shall have such other powers and authority, whether or not expressly authorized by this Amended Declaration of CC&RS, to enforce the provisions hereof, or of the Bylaws, the Association Rules, or Board resolutions.

5.2.4 Delegation of Powers; Manager. To delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("Manager"). The Manager may be an individual, organization, or firm selected by the Board. Any agreement for professional management of the Project shall be terminable by either party with or without cause on not more than thirty (30) days' written notice. The term of any such agreement shall not exceed one (1) year, although such agreement may be renewed from year to year by the Board.

5.2.5 Maintenance of Actions. To commence, defend, or participate in, for the benefit of the Association, any lawsuit, proceeding, or hearing affecting or relating to the Property, the Common Area, the Condominium Project, or any responsibility of the Association and Board under this Amended Declaration of CC&RS, the Articles, Bylaws, or Association Rules.

5.2.6 Right of Entry. To enter into any Unit to perform its obligations under this Amended Declaration of CC&RS, or the Association Rules including obligations with respect to construction, maintenance, or repair for the benefit of the Common Area, or to make necessary repairs that the Owner has failed to make, and the right to enter any Unit to perform permissible installations, alterations, or repairs to mechanical or electrical services, including installation of television antennae and related cables. Any entry shall be made only after reasonable advance notice has been made to the Owner, and where possible entry shall be scheduled for a time convenient to the Owner; provided, however, that in the case of an emergency no advance notice need be given to the Owner and entry may be made immediately.

5.2.7 Borrowings. To borrow monies for any proper purpose of the Association and to grant as security therefor liens or encumbrances against Association property, including the Common Area.

5.3 General Duties of the Association. In addition to the duties delegated to it by its Articles or Bylaws and without limiting their generality, the Association, acting through the Board, or by Persons or entities described in Section 5.2.4, has the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

5.3.1 Operation and Maintenance of Common Area. To provide for the operation, maintenance, and management of the Common Area, and all its facilities, improvements, and landscaping, including any private driveways, streets, and walkways, erosion control facilities, and any other property acquired by the Association, and to keep same in a first-class condition and state of repair. The Association may enter into contracts for services or materials for the benefit of the Association or the Common Area, including, but not limited to, contracts for security, maintenance, repair, trash removal, sewage, janitorial, utility, gardening, landscaping, legal and accounting services. The term of any such service contract shall not exceed one (1) year and shall be terminable by either party with or without

cause and without payment of a termination fee upon not more than thirty (30) days' written notice.

5.3.2 Maintenance of Buildings and Other Improvements. To provide for maintenance of the exterior of residence buildings, garages, elevators, Common Area stairways, common balconies, exterior door surfaces, fences, gutters, down spouts and exterior walls in or appurtenant to all Units, which maintenance shall be limited to painting, maintaining, repairing, altering, modifying and replacing bearing walls, columns, vertical supports, floors, roofs, foundations, patio and balcony walls, steps and railings, exterior lighting fixtures, pipes, ducts, flues, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within a Unit, when and if required by reason of normal wear and tear or deterioration. Such maintenance shall include action with regard to exterior glass surfaces of the Common Area facilities (such as the corridors, stairways and the recreational facilities), and exterior door surfaces, but not exterior glass surfaces which are directly appurtenant to a Unit (such as windows, a glass enclosure of a patio or balcony comprising a part of a Unit, or sliding glass doors), and not door knobs or locks which are appurtenant to a Unit.

Such maintenance shall not include action with respect to a Unit, including, but not limited to Unit's air conditioning, heating, sliding glass doors, door knobs or locks, patio, terrace and balcony floor surfaces, landscaping within a Unit's patio or balcony area, patio or court covers, or other additions built or maintained on or within such private patio areas or entry court areas by an Owner. Also, such maintenance shall not include maintenance, repairs, or replacements required by reason of the negligent or willful act of an Owner, his or her Permitted Residents or Invitees, or the failure of an Owner promptly to notify the Association of a condition or defect requiring repair by the Association. Such excluded maintenance, repairs, and replacements shall be the responsibility of each Owner (see Section 7.3); provided, however, that if an Owner shall fail to perform such maintenance or make such repairs or replacements as are his or her responsibility,

then, after not less than thirty (30) days' written notice to such Owner, the Association shall have the right (but not the obligation) to enter into or upon the Unit of such Owner and provide such maintenance or make such repairs or replacements, and recover the costs thereof from such Owner.

5.3.3 Taxes and Assessments. To pay real and personal property taxes and assessments and all other taxes levied against the Association, the Common Area, or personal property owned by the Association. Such taxes and assessments may be contested or compromised by the Association provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

5.3.4 Utilities. To acquire, provide, and pay for water, sewer, refuse and rubbish collection, electrical, telephone, gas, and other necessary utility services for the Common Area. The term of any contract to supply any of the listed services shall not exceed one (1) year or, if the supplier is a regulated public utility, the shortest term for which the supplier will contract at the applicable regulated rate.

5.3.5 Insurance. To obtain from and maintain with reputable insurance companies the insurance described in Sections 8.1 and 8.2 hereof.

5.4 Personal Liability. No member of the Board, or of any committee of the Association, or any officer of the Association, or any Manager, shall be personally liable to any Owner or to any other party, including the Association, for any damage, loss, injury, or prejudice suffered or claimed on account of any act, omission, or error, whether negligent or not, of any such Person if such Person has, on the basis of such information as may be possessed by him or her, acted in good faith without gross negligence or willful misconduct.

5.5 Budgets of the Association. The Association shall prepare or cause to be prepared a proforma operating budget which shall be distributed to the Owners not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the Association's fiscal year. The budget shall include: (i) the estimated revenue and

expenses on an accrual basis; (ii) the identification of the total cash reserves currently set aside; (iii) the identification of the estimated remaining life of and the methods of funding used to defray the future repair, replacement, or additions to, those major components which the Association is obligated to maintain; and (iv) a general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement or additions to those major components that the Association is obligated to maintain.

5.6 Financial Statements of the Association. As soon as practicable following the close of the fiscal year, the Association shall cause financial statements to be prepared showing the income and loss for the year just ended, and containing a balance sheet. Such financial statements shall be distributed to the Owners not more than ninety (90) days after the close of each fiscal year. In any fiscal year in which the gross income of the Association exceeds Seventy Five Thousand Dollars (\$75,000), the Association shall cause a review of the financial statements to be prepared in accordance with generally-accepted accounting principles by a licensee of the California State Board of Accountancy, which review shall be distributed along with the financial statements.

5.7 Statement of Enforcement Policies of the Association. A statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of its assessments against the Owner shall be annually delivered to the Owners during the 60-day period immediately following the beginning of the Association's fiscal year.

5.8 Information Provided to Owners. Upon written request, the Association shall, within ten (10) days of the mailing or delivery of the request, provide an Owner with a copy of the Articles of Incorporation, the Bylaws, the Association Rules, and this Amended Declaration of CC&RS, a copy of the most recent financial statement distributed to the Owners, and a statement of assessments as provided in Section 6.9. The Association may charge a fee for this service, which shall not exceed the Association's

reasonable cost to prepare and reproduce the requested items.

ARTICLE VI  
ASSESSMENTS AND LIENS

6.1 Purpose of Assessments. The levy of regular and special assessments shall be for the purpose of promoting the recreation, health, safety, and welfare of Owners, for the improvement, replacement, repair, operation, and maintenance of the Common Area, for the establishment of reserves for the improvement or repair of the Common Area, and for the performance of the duties of the Association. All such assessments shall be used for the purposes for which they were levied.

6.2 Agreement to Pay. Each purchaser of a Condominium, by his or her acceptance of a deed or equitable interest in land sale contract, covenants and agrees, for each Condominium owned, to pay to the Association the regular and special assessments levied as provided hereunder, in the amounts and at the times fixed by the Board.

Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article VI, the benefit of any homestead or exemption laws of California in effect at the time any lien is imposed.

6.3 Regular Assessments. Not less than sixty (60) days before the beginning of each fiscal year, the Board shall estimate the total amount of funds necessary to defray the anticipated expenses of the Association for the next fiscal year, including amounts deemed necessary for adequate reserves and contingencies. Subject to the next sentence, the amount of the regular assessments shall be set by the Board, without any vote of the Owners, but shall not be increased unless such increase is reasonably required to defray the expenses of the Association for the next fiscal year. In no event may the Board impose a regular assessment hereunder which is more than ten percent (10%) greater than the regular assessment for the immediately preceding fiscal



year without the vote or written approval of a majority of the voting power of the Association.

The regular assessments shall be payable in twelve (12) equal monthly installments which shall be due on the first day of each month, unless some other due date is established by the Board.

**6.4 Special Assessments.** If the Board determines that the estimated total amount of funds necessary to defray the expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason (including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs, or replacements of capital improvements on or in the Common Area), the Board shall determine the approximate amount necessary to defray such expenses and shall have the power to levy a special assessment for said amount. The Board may, in its discretion, prorate such special assessment in installments over a period of time chosen by the Board or cause such assessment to be immediately payable in full.

Unless the special assessment will be used for the maintenance or repair of the Common Area or other areas which the Association is obligated to maintain or repair, including, but not limited to, the payment of insurance premiums, the payment of utility bills, the costs incurred in maintaining or repairing structures or improvements, and funding reserves, or be used to address emergency situations, the amount of the special assessment may not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the approval of a majority of the Voting Power of the Association.

In the event the Association expends funds pursuant to Section 5.2.6 or Section 7.8 for which an Owner is liable, the Association shall have the right to assess such Owner for such sums pursuant to this Section 6.4.

**6.5 Rate of Assessment.** Except as otherwise expressly provided herein, regular and special assessments shall be assessed against each Owner on the basis of the following percentages:

<u>Condominium Unit No.</u>	<u>Percentage</u>	<u>Condominium Unit No.</u>	<u>Percentage</u>
1	1.1442	51	0.9740
2	1.1442	52	0.9740
3	1.1442	53	0.9740
4	0.9740	54	0.9740
5	0.9740	55	0.9740
6	1.1442	56	0.9740
7	1.1442	57	0.9740
8	1.1442	58	0.9740
9	1.1442	59	0.9740
10	0.9740	60	0.9740
11	0.9740	61	0.9740
12	1.1442	62	0.9740
13	1.1442	63	0.9740
14	1.1442	64	0.9740
15	1.1442	65	0.9740
16	0.9740	66	0.9740
17	0.9740	67	0.9740
18	1.1442	68	0.9740
19	0.9740	69	0.9740
20	0.9740	70	0.9740
21	1.1442	71	0.9740
22	0.9740	72	0.9740
23	0.9740	73	0.9740
24	1.1442	74	0.9740
25	0.9740	75	0.9740
26	0.9740	76	0.9740
27	1.1442	77	0.9740
28	0.9740	78	1.1441
29	0.9740	79	0.9740
30	1.1442	80	0.9740
31	0.9740	81	0.9740
32	0.9740	82	0.9740
33	1.1442	83	0.9740
34	0.9740	84	1.1441
35	0.9740	85	0.9740
36	1.1442	86	0.9740
37	0.9740	87	0.9740
38	0.9740	88	0.9740
39	0.9740	89	0.9740
40	0.9740	90	1.1442
41	0.9740	91	0.9740
42	0.9740	92	0.9740
43	0.9740	93	0.9740
44	0.9740	94	0.9740
45	0.9740	95	0.9740
46	0.9740	96	0.9740
47	0.9740	97	0.9740
48	0.9740	98	0.9740
49	0.9740	99	0.9740
50	0.9740		

If any property tax on the Common Area, or any portion thereof, is not separately assessed against the individual Units as part of the property tax on such Units, each Unit shall be responsible for the payment of that respective percentage of such tax assessed against the Common Area equal to such Unit's percentage interest in the Common Area as set forth in Section 4.2.

6.6 Notice and Assessment Due Dates; Delinquency. Not less than ten (10) days prior to the due date of the first installment, written notice of the regular assessment for the year and any special assessment then planned shall be given to the Owner of every Condominium subject to assessments, which notice shall specify the due dates for the payment of assessments or installments thereof. Each installment of regular assessments and each special assessment or installment thereof shall become delinquent if not paid within fifteen (15) days after it is due.

6.7 Late Charges and Interest on Delinquent Assessments. A late charge in an amount established by the Association, but not exceeding ten percent (10%) of the delinquent assessment or Ten Dollars (\$10.00), whichever is greater, may be imposed on all delinquent installments or assessments. The amount of the late charge, plus all costs of collection incurred by the Association, including, but not limited to, attorney's fees, shall be immediately due and payable by the particular Owner. All sums imposed by this Section, including late charges and costs of collection, shall bear interest at the highest rate allowed by law, not exceeding twelve percent (12%) per annum, commencing thirty (30) days after the due date therefor, and continuing through the date full payment is received by the Association.

6.8 Personal Obligations. Each assessment or installment thereof, together with any late charge, interest, collection costs, and reasonably attorney's fees, shall be the personal obligation of the Person who is the Owner at the time such assessment or installment becomes due and payable. If more than one Person is the Owner of a

Condominium, the personal obligation to pay such assessment or installment shall be the joint and several obligation of each such Person. No Owner of a Condominium may exempt himself or herself from payment of assessments or installments by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use or enjoyment of, or abandonment of, his or her Condominium.

6.9 Statement of Assessments. Upon written request, the Association shall, within ten (10) days of the mailing or delivery of the request, provide an Owner with a statement as to the amount of any assessments levied against the Owner's Unit which are unpaid on the date of the statement. The statement shall also include information on the late charges, interest, and costs of collection which, as of the date of the statement, are or may be a lien against the Owner's Unit. The Association may charge a fee for this service, which shall not exceed the Association's reasonable cost to prepare and reproduce the requested items.

6.10 Right to Collect and Enforce. The right to collect and enforce assessments is vested in the Board acting on behalf of the Association. The Board or its authorized representative, including any Manager, can enforce the obligations of the Owners to pay assessments, late charges, interest, and costs provided for herein by commencement and maintenance of a suit at law or in equity, or by foreclosing any lien created hereunder by judicial proceedings or by exercise of the power of sale pursuant to Section 6.12. A suit to recover a money judgment for unpaid assessments together with all other obligations described in Section 6.7 shall be maintainable without foreclosing or waiving lien rights.

6.11 Notice of Delinquency; Creation of Lien. At any time after any regular or special assessment, or installment thereof, against any Condominium has become delinquent, the Association may record in the office of the County Recorder of Santa Barbara County a Delinquency Notice as to such Condominium. This Delinquency Notice shall state therein the amount of such delinquency and the interest, costs, and charges which have accrued thereon, a description

of the Condominium against which the delinquency has been assessed, and the name of the Owner thereof.

Immediately upon the recording of any Delinquency Notice pursuant hereto, the amounts of the delinquency set forth therein and the interest, costs and charges accrued and accruing thereon shall be and become a lien upon the Condominium(s) described therein, which lien shall continue until the amount of such delinquency and the interest, costs and charges accrued thereon have been fully paid or otherwise satisfied or the lien foreclosed as provided for herein.

Upon the timely curing of any default for which a Delinquency Notice was recorded by the Association, and upon payment by any delinquent Owner of actual expenses incurred, including reasonable attorney's fees, the Association shall cause to be recorded in the office of the County Recorder of Santa Barbara County a certificate setting forth the satisfaction of such claim and release of such lien.

6.12 Enforcement of Lien; Attorneys' Fees.

Unless the lien is satisfied and released, each lien created pursuant to the provisions hereof by the recordation of a Delinquency Notice, may be enforced by foreclosure sale by the Association, its attorney or other Person authorized to make the sale. Such sale may be conducted in accordance with the provisions of Sections 2924, 2924b, 2924c, 2924f and 2924g of the California Civil Code or in any other manner permitted by law. The Delinquency Notice shall designate the name of the trustee initially nominated to conduct a nonjudicial sale to satisfy the assessment lien and shall expressly authorize substitution of another trustee to conduct the sale. The sale, however, may be a judicial sale in lieu of a nonjudicial sale and the Association may pursue an action against the Person owing an assessment even where a lien is created. The Association, on approval of at least sixty-seven percent (67%) of the Voting Power of the Association, may accept a deed in lieu of foreclosure. The Association, on approval of at least sixty-seven percent (67%) of the Voting Power of the Association, may, through its duly authorized agents, have the power to bid on the

Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

The Association may bring a separate legal action to collect the delinquent assessments without foreclosing such lien and before or after the Association has recorded a Notice of Delinquency. In any private sale or action to collect the delinquent assessments or to foreclose any such lien, the Association shall be entitled to costs, reasonable attorney's fees and such charges and interest as is accrued to the date of sale or judgment.

#### ARTICLE VII USE RESTRICTIONS

In addition to all other covenants, conditions and restrictions contained herein, the use of the Condominium Project, of each Unit contained therein, and of the Common Area is subject to the following:

7.1 Residential Use. Except as expressly provided by Section 7.2, Units in the Condominium Project shall be used only for residential purposes; no part of the Condominium Project shall ever be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, vending, or other such nonresidential purposes.

7.2 Leases of Units. Nothing in this Amended Declaration of CC&RS shall prevent an Owner from leasing or renting his or her Condominium. However, any lease or rental agreement shall be in writing and any tenant/lessee shall abide by and be subject to all provisions of this Amended Declaration of CC&RS, the Articles, the Bylaws and the Association Rules, and any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement. Every Owner shall be responsible to the Association for the acts and omissions of his or her tenant/lessee.

7.3 Owner Maintenance. Subject to the provisions of Section 5.3.2, each Owner of a Unit shall be responsible at his or her sole cost and expense for maintaining his or

her Unit, including the equipment and fixtures in the Unit and its interior walls, flooring, ceilings, equipment fixtures, windows and doors, patio, balcony, and terrace floor surfaces, air conditioning and heating equipment and lighting installations in a clean, sanitary, workable and attractive condition. No Owner Shall make any alteration, repair or addition to his or her Unit which would affect the exterior building appearance thereof, without the written approval of the Association. However, each Owner shall have complete discretion as to the choice of furniture, furnishings and interior decorating, subject to any restrictions set forth in this Amended Declaration. Each Owner shall also be responsible for the repair, replacement, maintenance and cleaning of the exterior and interior of all windows, sliding glass doors and a glass enclosed patio or balcony in his or her Unit. Each Owner shall also be responsible for the repair, replacement, maintenance and cleaning of all door knobs and locks.

It shall be the responsibility of each Owner promptly to give notice to the Association of any condition or defect affecting his or her Condominium requiring repair which is the responsibility of the Association to maintain, and each Owner shall be liable for any additional damage and costs of repair resulting from the failure of the Owner promptly to give such notice. In the event the Association undertakes the rebuilding, repair, replacement, or rehabilitation of a Unit that is the responsibility of an Owner, the Association may recover the cost thereof from the Owner.

7.4 Signs. Except for signs approved by the Association for the benefit of the entire Condominium Project, no signs of any kind shall be displayed by any Owner or Permitted Resident in the public view on or about any Unit or the Common Area.

7.5 Structural Alterations by Owner. No structural alterations to the interior of any Unit shall be made, and no plumbing or electrical work within any bearing or party walls shall be made by an Owner without the prior written consent of the Association. Engineering studies and architectural drawings with specifications must accompany

any request for structural alterations, including enclosing a balcony. No Owner may modify, alter, or penetrate the ceiling, any exterior or party wall, the roof, or the sub-flooring or slab of or around a Unit, or any portion of the Common Area, without the prior written consent of the Association.

7.6 Animals. Except as expressly provided below in this Section, no animals, birds, reptiles, livestock, poultry or pets of any kind shall be brought within the Condominium Project or any Unit. Fish and domesticated dogs, cats and caged birds, subject to the conditions below, may be kept as household pets within any Unit if they are not kept, bred or raised for commercial purposes. As to each pet, express written consent of the Association (which consent may be granted or refused in the sole discretion of the Board) must first be obtained before any such pet may be brought within Condominium Project and kept in a Unit. Such pet shall not be allowed on the Common Area except as may be permitted by the Association Rules. Each Owner shall be liable to other Owners, their Permitted Residents, Invitees, and the Association, for any damage to Person or property caused by any pet brought upon or kept upon or in the Condominium Project by an Owner or by members of his or her family, Permitted Residents, or Invitees, whether or not consent to keeping such pet has been given. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Project upon twenty (20) days' written notice from the Association.

7.7 Offensive Activities. No noxious or offensive activities shall be conducted on or within the Condominium Project. Nothing shall be done on or within the Condominium Project that may be or may become an annoyance or nuisance, or that in any way interferes with the quiet enjoyment of the Owners, their Permitted Residents and Invitees. Unless otherwise permitted by the Association, no Owner shall serve food or beverages, cook, barbecue or engage in similar activities, except within such Owner's Unit. All Owners and the Permitted Residents and Invitees shall comply with all of the requirements of the local or State Board of Health and with all other governmental



authorities with respect to the occupancy and use of said premises.

7.8 Owner Liability. Each Owner shall be liable to the remaining Owners for any damage to the Common Area or to Association-owned property that may be sustained by reason of the negligence of that Owner, or his or her Permitted Residents and Invitees, including, without limitation, the deductible portion of any insurance coverage insuring against personal injury or property damage for which such Owner or the Association may otherwise be insured. The Association may require that such Owner restore, replace, or rebuild the portion of the Common Area so destroyed. Upon failure of an Owner to complete the restoration, replacement, or rebuilding after notice from the Association, the Association may complete the same and recover the costs thereof from such Owner. Each Owner, by acceptance of his or her deed, agrees for himself or herself and for his or her Permitted Residents and Invitees, to indemnify each and every other remaining Owner, and to hold such remaining Owner(s) harmless from, and to defend them against, any claim of any Person for personal injury or property damage occurring within the Unit of that particular Owner unless the injury or damage occurred by reason of the willful or negligent act or omission of the Association or any other Owner or Person temporarily visiting in said Unit or the injury or damage is covered by liability insurance in favor of the Association or other Owner. This indemnification shall include any and all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or action or proceeding brought thereon, whether or not well-founded.

7.9 Use of Garage and Exterior Parking Areas. Except as provided in the Association /rules, any assigned garage space shall be used only for the parking of cars or similar motor vehicles. Exterior parking areas are intended for use by Invitees only. Owners and their Permitted Resident may only use exterior parking areas for temporary parking.

7.10 Rubbish. All rubbish, trash, garbage and other waste, not disposed of in a garbage disposal, shall be

kept only in sanitary containers and shall be regularly deposited in the trash chutes by the Owners and shall not be allowed to accumulate in a Unit.

7.11 Drilling Prohibited. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted on or in the Condominium Project, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of the Condominium Project or within five hundred (500) feet below the surface of the Condominium Project. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Condominium Project.

7.12 Obstruction Prohibited. There shall be no obstruction of any portion of the Common Area nor shall anything be stored in the Common Area without the prior consent of the Association, except as otherwise expressly provided for herein.

7.13 No Impairment of Insurance; Compliance with Laws. Nothing shall be done or kept in any Unit or in the Common Area which might increase the rate of, or cause the cancellation of insurance on the Condominium Project, or any portion thereof, without prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Area that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

7.14 Glass Door and Window Coverings. The covering of the interior surfaces of the glass doors and windows appurtenant to any Unit in the Condominium Project whether by draperies, shades or other items visible from the exterior of the building shall be subject to the Association Rules. The exterior lining or surface of the draperies, shades or other items covering such glass doors and windows shall be white or other neutral color approved by the Board. No blankets, sheets, towels or other similar materials may be used as coverings or curtains.

7.15 No Hanging Laundry. No exterior clotheslines shall be erected or maintained; no clothes,

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sheets, blankets, laundry or other similar articles shall be hung out or exposed on any part of the Common Area or any balconies, decks, patios, yards or porches constituting a part of any Unit.

7.16 Storage and Storage Spaces. All assigned storage spaces, i.e. those in the basements of the residential buildings and overhead lockers may be used for storage of personal property. Other storage of personal property shall be prohibited on, in or around any Unit unless the Owner has received approval from the Association. Except as provided herein and in the Association Rules, no Owner may store personal property on the Common Area.

7.17 No Alterations to Antenna System. No alteration to or modification of the radio and or television antenna system as installed shall be permitted without the approval of the Association, and no Owner may be permitted to construct and/or use or operate his or her own external radio and/or television antenna or satellite dish without the approval of the Association. However, each Owner shall have the right to maintain television or radio antennas within completely enclosed portions of his or her Unit.

7.18 Use of Recreational Vehicles, etc. Prohibited. No boat, truck, trailer, camper, or recreational vehicle shall be used for living accommodations or kept or stored within the Condominium Project.

7.19 Mechanic's Liens. No Owner shall permit any mechanic's or materialman's lien(s) to be recorded against any Association property. Each Owner shall indemnify and hold harmless the Association against any loss, injury, or damage that may be suffered as a result of any violation of this Section 7.19.

## ARTICLE VIII INSURANCE

8.1 Fire and Extended Coverage Insurance. The Association shall obtain and maintain a master policy of fire insurance coverage for the full insurable value of all

of the improvements within the Common Area. To the extent reasonably available, the policy shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or their equivalent, an extended coverage endorsement, vandalism or malicious mischief coverage, a special form endorsement, and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall provide such amounts of coverage as shall be determined by the Board. The policy shall name as insured the Association, the Owners and all Mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the insurance trustee described in the following paragraph. The relative interests of the Owners shall be their percentage interests in the Common Area, as provided in Section 4.2.

All fire and extended coverage insurance proceeds payable under the preceding paragraph, subject to the rights of Mortgagees, shall be paid to an insurance trustee, to be held and expended for the benefit of the Owners, Mortgagees, and others, as their interests shall appear. The insurance trustee shall be a financial institution with trust powers in Santa Barbara County that agrees in writing to accept such trust. The Association is authorized, on behalf of the Owners to enter into such agreement, consistent with this Amended Declaration of CC&RS, with such insurance trustee, relating to its powers, duties and compensation, as the Association may approve. If repair or reconstruction is authorized, the Association shall have the duty to contract for such work as provided for herein.

#### 8.2 General Comprehensive Public Liability

Insurance. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any Manager, the Owners, and Permitted Residents and Invitees, against any liability incident to the ownership or use of the Common Area or any other Association-owned or maintained real or personal property and including, if

obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than one million dollars (\$1,000,000) covering all claims for death, personal injury, and property damage arising out of a single occurrence. Such insurance shall include coverage against liability for non-owned and hired automobiles, liability for property of others, and any other risk customarily covered with respect to similar projects.

8.3 Individual Fire Insurance Limited. Except as provided in this Section, no Owner may separately insure his or her Unit or any part of it against loss by fire or other casualty covered by any insurance carried under Section 8.1. If any Owner violates this Section, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 8.1 that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance, and the Owner will be liable to the Association to the extent of any diminution. An Owner may, and it is recommended that he or she do, insure his or her personal property against loss, and, in addition, may insure any improvements made by such Owner to the structural elements of his or her Unit, but such insurance shall be limited to the type and nature of coverage commonly known as tenant's insurance. All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners and the Association.

8.4 Other Insurance. The Board may purchase and maintain in force, at the expense of the Association, debris removal insurance, fidelity bonds and other insurance and or bonds that are necessary or appropriate. The Board shall purchase and maintain workers' compensation insurance to the extent of that required by law respecting employees of the Association. Any and all policies purchased pursuant hereto by the Association may be combined into one or more blanket or consolidated policy or policies at the Board's discretion.

8.5 Adjustment of Losses. The Board is appointed attorney in fact by each Owner to negotiate and agree on the

extent of any loss under any policy carried pursuant to this Article VIII. The Board is granted full right and authority to compromise and settle or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

8.6 Prepaid Insurance. Without the prior approval of the Members by vote or written consent of the majority of the voting power thereof, no prepaid casualty and/or liability insurance policies having a term in excess of three (3) years or not providing for short-rate cancellation by the insured shall be purchased by or in the name of the Association.

8.7 Selection of Policies. All insurance policies shall be selected by the Board. The Board shall have the discretion to determine the amount of any deductible or self-insurance portion under any policy, the nature and extent of insurance policies, and the carrier writing the policies.

## ARTICLE IX CONDEMNATION

9.1 Sale by Consent of Owners. If an action for condemnation of all or a portion of the Condominium Project is proposed or threatened by any governmental agency having the right of eminent domain, then, upon the approval of seventy-five percent (75%) of the Voting Power of the Association and after written notice to all Mortgagees, the Condominium Project or any portion of it may be sold prior to a judgment. The proceeds from any such sale, less payment for expenses of such sale, shall be distributed in the manner provided herein.

9.2 Distribution of Common Area Awards. In the event that an action in eminent domain is brought to condemn all or any portion of the Common Area within the Condominium Project, or a sale is made pursuant to Section 9.1, the award made for such taking shall be payable as follows:

9.2.1 If the award is for the acquisition of the entire Common Area, the amount payable shall be paid to

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the Association, as trustee, for distribution to the Owners, each in proportion to his or her percentage interest in the Common Area as provided in Section 4.2, subject to (i) the rights of Mortgagees holding Mortgages covering each such Owner's Condominium, and (ii) all unpaid assessments of such Owner together with any additional charges attributable thereto;

9.2.2 If the award is for the acquisition of only part of the Common Area and is less than ten percent (10%) of the value of the Common Area, the entire amount thereof shall be payable to the Association, as trustee (subject to the rights of Mortgagees holding mortgages on Condominiums within the Condominium Project), and such amount, together with interest earned thereon, shall be held by the Association to reduce the general expenses for the next succeeding fiscal year; or

9.2.3 If the award is for the acquisition of only part of the Common Area and is in excess of ten percent (10%) of the value of the Common Area it shall be paid to the Association as trustee, and shall be distributed to the Owners, each in proportion to his or her percentage interest in the Common Area as provided in Section 4.2, subject to (i) the rights of Mortgagees holding Mortgages covering each such Owner's Condominium, and (ii) all unpaid assessments of such Owner together with any additional charges attributable thereto.

9.3 Distribution of Unit Awards. In the event that an action in eminent domain is brought to condemn all or any portion of one or more Units within the Condominium Project, or a sale thereof is made pursuant to Section 9.1, the proceeds of the sale or the award made for such taking shall be payable to the respective Owners of the Units so taken according to the respective values of the Units affected by the condemnation as determined by independent appraisal. Such appraisal shall be made by a licensed M.A.I. appraiser selected by the Board, subject to (i) the rights of Mortgagees holding Mortgages covering such Units, and (ii) all unpaid assessments of each Owner taken together with additional charges attributable thereto.

ARTICLE X  
DESTRUCTION OF THE PROJECT OR ITS ELEMENTS

10.1 Destruction of a Single Unit. If any one of the buildings is damaged by fire or other casualty and the damage is limited to a single Unit, all insurance proceeds shall be paid to the Owner(s), or Mortgagee(s) thereof, as their interests may appear, and such Owner(s) or Mortgagee(s), shall use the same to promptly rebuild or repair such Unit in accordance with the original plans and specifications therefor.

10.2 Destruction of more than one Unit or of the Common Area. If the damage extends to two (2) or more Units, or extends to any part of the Common Area:

10.2.1 Minor Repairs. If the available insurance proceeds paid by the insurer do not exceed fifteen percent (15%) of the value of all Project improvements, and the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than ten percent (10%), such insurance proceeds shall be paid to an insurance trustee as designated in Section 8.1. The Association shall thereupon contract to repair or rebuild the damaged portions of such Units and the Common Area in accordance with the original plans and specifications therefor, and the insurance proceeds paid to the insurance trustee shall be used for this purpose. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Association shall levy a special assessment on all Owners in proportion to their interests as provided in Section 6.5, to make up any deficiency.

10.2.2 Major Repairs. If Section 10.2.1 above is inapplicable, then:

(i) All insurance proceeds shall be paid to an insurance trustee designated in the same manner as in Section 8.1;

(ii) The Association shall obtain firm bids (including an obligation to obtain a performance bond) from two (2) or more responsible contractors to rebuild the



affected portions of the Condominium Project in accordance with its original plans and specifications and shall, as soon as possible thereafter, call a special meeting of the Owners to consider such bids. If the Association fails to do so within sixty (60) days after the damage occurs, any Owner may obtain such bids and call and conduct such meeting. At such meeting the Owners, on approval of sixty-seven percent (67%) of the Voting Power of the Association, may elect to reject all of such bids and thus not to rebuild, or on approval of fifty-one percent (51%) of the Voting Power of the Association, may elect to reject all such bids requiring amounts more than ten percent (10%) in excess of available insurance proceeds. Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable. Failure to call such meeting or to repair such damage within twelve (12) months from the date such damage occurred shall be deemed for all purposes a decision not to rebuild;

(iii) If a bid is to be accepted, the Association shall levy a special assessment pursuant to Section 6.4, on all Owners, in proportion to their interests as provided in Section 6.5, to make up any deficiency between the total insurance proceeds and the contract price for such repair or rebuilding. Such assessment and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to the insurance trustee to be used for such rebuilding. If any Owner shall fail to pay the special assessment within thirty (30) days after the levy thereof, the Association may make up the deficiency by payment from its regular assessment funds. Upon receiving payments of all such funds, the Association shall enter into a contract with the contractor whose bid was selected;

(iv) Upon an election not to rebuild, the Association, as soon as reasonably possible and as agent for the Owners, shall sell the entire Condominium Project, in its then condition or cleared of the remaining improvements, on terms satisfactory to the Association as the Board may determine, free from the effect of this Amended Declaration of CC&RS, which shall terminate upon such sale. The Board

may use all or any portion of the insurance proceeds or levy a special assessment therefor if such proceeds are inadequate for the purpose of demolishing any remaining improvements and leveling and clearing the land. The net proceeds from such sale, and all funds held by the insurance trustee, shall thereupon be distributed to the Owners in the manner described in Sections 9.2 and 9.3, and to the Mortgagees as their interest may appear.

10.3. Recordation of Certificate. Promptly after a decision has been made as to whether or not to rebuild, the Association, or if it does not, any Owner, the insurer, the insurance trustee, or any Mortgagee, shall record a certificate in the office of the County Recorder of Santa Barbara County, stating that such damage has occurred, describing it, identifying the building(s) suffering such damage, stating the name of any insurer against whom claim is made, and the name of any insurance trustee, stating whether or not the Condominium Project will be rebuilt, and reciting that the certificate is recorded pursuant to this Amended Declaration of CC&RS and that a copy of such certificate has been mailed to each of the Owners. The Association, whether on its own initiative or by request from the party recording the certificate, shall be responsible for mailing such certificate to the Owners.

#### ARTICLE XI DURATION AND AMENDMENT

11.1 Term. Each and all of the provisions contained in this Amended Declaration of CC&RS shall run with the land and shall be binding on all parties and all Persons claiming under them until fifty (50) years from the date hereof, after which time this Amended Declaration of CC&RS shall be deemed automatically extended for successive periods of twenty-one (21) years, unless an instrument cancelling and terminating it, executed by a majority of the voting power of the Association, shall be recorded in the office of the County Recorder in Santa Barbara County within

one year prior to the end of the fifty (50) year period or any succeeding twenty-one (21) year period.

11.2 Amendment. This Amended Declaration of CC&RS may be amended by the vote of fifty percent (50%) of the Voting Power of the Association. However, if any provision of this Amended Declaration of CC&RS requires greater or lesser percentage of the voting power of the Association in order to take action under such provision, the same percentage of the voting power shall be required to amend or revoke such provision. Notwithstanding anything in this Section to the contrary, the provisions of Article XII may only be amended in accordance with the terms thereof.

#### ARTICLE XII PROTECTION OF MORTGAGEES

12.1 Subordination. No breach of the covenants, conditions, or restrictions herein contained, nor the enforcement of any lien as provided for in Article VI or the pursuit of any other remedy hereunder shall defeat or render invalid the lien of any recorded Mortgage made in good faith and for value, upon the right, title, or interest or a portion of interest of any Owner in the Condominium Project. All of the covenants, conditions, and restrictions shall be subject and subordinate to the lien of each Mortgage; provided, however, each and every provision, condition, covenant, restriction and limitation hereof shall be binding upon and effective as to any breaches occurring subsequent to foreclosure or trustee's sale.

12.2 Amendment. No amendment of this Amended Declaration of CC&RS shall adversely affect the rights of a Mortgagee under a Mortgage recorded prior to recordation of such amendment unless such amendment has been approved by seventy-five percent (75%) of all Mortgagees holding Mortgages on Units.

ARTICLE XIII  
MISCELLANEOUS PROVISIONS

13.1 Interpretation. The provisions of this Amended Declaration of CC&RS shall be liberally construed to effectuate its purpose. In the event that any of the provisions of this Amended Declaration of CC&RS conflict with any of the provisions of the Articles, Bylaws or Association Rules, the provisions of this Amended Declaration of CC&RS shall control.

13.2 Prohibition Against Severability. No Owner shall be entitled to sever his or her Unit from his or her membership in the Association or from his or her undivided fractional interest in the Common Area for any purpose. None of the component interests may be severally sold, conveyed, encumbered, hypothecated or otherwise affected and any attempt to do so in violation of this provision shall be void and of no effect.

13.3 Record of Mortgagees. It shall be the duty of each Owner whose Condominium is encumbered by a Mortgage to notify the Association through its Secretary of the name and address of the Mortgagee, and the Association shall maintain a record of the Mortgagees. The Owner shall likewise notify the Association as to the release or discharge of any such Mortgage.

13.4 Severability. The provisions of this Amended Declaration of CC&RS shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision shall not invalidate any other provisions.

13.5 Binding on Successors. This Amended Declaration of CC&RS shall inure to the benefit of and be binding upon the heirs, personal representatives, grantees, successors and assigns of the Owners.

13.6 Headings. The headings used herein are for convenience only and are not to be used to interpret the meaning of any of the provisions hereof.

13.7 Waiver. The failure of the Association, Board, any committee of the Board or Manager to enforce any

right, duty, provision, covenant, condition, or restriction contained in the Articles, Bylaws, Association Rules, or this Amended Declaration of CC&RS shall not constitute a waiver of the right of the Association to later enforce the same right, provision, covenant, or condition, whether against the same or any other Owner.

13.8 Cumulative Remedies. Each remedy provided for in this Amended Declaration of CC&RS shall be cumulative and not exclusive. Failure to exercise any remedy provided for herein shall not, under any circumstances, be construed as a waiver thereof.

13.9 Violations as Nuisance. Every act or omission in violation of the provisions of this Amended Declaration of CC&RS, the Bylaws, and the Association Rules shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, member of the Board, the Manager, or the Association.

13.10 Access to Books. Any Owner may, at any reasonable time and upon reasonable notice to the Board or Manager and at his or her own expense, cause an audit or inspection to be made of the books and financial records of the Association and make copies thereof.

13.11 Prohibition Against Partition. Except as provided by section 1359 of the California Civil Code, there shall be no judicial partition of the Condominium Project or any part thereof, and any Person acquiring an interest in the Condominium Project or any part thereof, absolutely waive the right to partition the real property in kind and waive the right to seek partition for the purpose of a sale of the real property, or any portion thereof, unless the bringing of a suit for partition has been approved by vote or written consent of sixty-seven percent (67%) of first Mortgagees and sixty-seven percent (67%) of the Voting Power Association; provided, however, that nothing in this Amended Declaration of CC&RS shall prevent partition or division of interest between joint tenants or tenants in common of one (1) Condominium.

13.12 Notices. Notices shall be deemed received forty-eight (48) hours after mailing if mailed by certified

mail or first class mail, to an Owner at such Owners Unit address, and to the Association at 100 Seaview Drive, Montecito, California 93108. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or immediately upon personal delivery to any occupant of a Unit over the age of twelve (12) years. Mailing addresses may be changed at any time upon written notification to the Secretary of the Association.

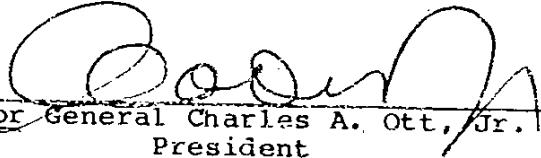
13.13 Number; Gender. The singular number shall include the plural and the plural the singular unless the context requires the contrary. References to the masculine, feminine or neuter genders shall include the other genders as the context requires.

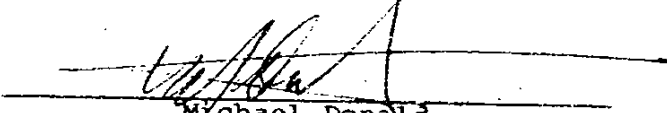
13.14 Easements Reserved and Granted. Any easements referred to in this Amended Declaration of CC&RS shall be deemed reserved or granted, or both reserved and granted, by reference to this Amended Declaration of CC&RS in a deed to any Condominium.

13.15 Original Declaration of CC&RS Superseded. This Amended Declaration of CC&RS, when recorded in the Office of the County Recorder of Santa Barbara County, supersedes in its entirety the Original Declaration of CC&RS.

13.16 Effective Date. This Amended Declaration of CC&RS shall be effective on the date that a certificate executed by the President and Secretary of the Association is recorded in the Office of the County Recorder for Santa Barbara County, certifying that this Amended Declaration of CC&RS was duly adopted by the Members.

IN WITNESS WHEREOF, the undersigned have executed this Certificate and affixed the corporate seal of this corporation on September, 1986.

  
Major General Charles A. Ott, Jr.  
President

  
Michael Donald  
Assistant Secretary

STATE OF CALIFORNIA )

: ss.

COUNTY OF SANTA BARBARA )

On this 29<sup>th</sup> day of September, 1986,  
before me, a Notary Public in and for said State, personally  
appeared Major General Charles A. Ott, Jr., the President,  
and Michael Donald, the Assistant Secretary, of MONTECITO  
SHORES HOMEOWNERS ASSOCIATION, the corporation that executed  
the within instrument, proved to me on the basis of  
satisfactory evidence to be the persons who executed the  
within instrument on behalf of the corporation herein named,  
and acknowledged to me that such corporation herein named,  
and acknowledged to me that such corporation executed the  
within instrument pursuant to its bylaws or a resolution of  
its board of directors.

WITNESS my hand and official seal.

*Janice T. Wurzbarger*  
Notary Public in and for  
said State

