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**CORDILLERAS HEIGHTS HOMEOWNERS'
ASSOCIATION
c/o HUGHES GILL COCHRANE TINETTI, P.C.
Attn: Hanh T. Pham, Esq.
1350 Treat Boulevard, Suite 550
Walnut Creek, California 94597**

(Space Above for Recorder's Use)

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
CORDILLERAS HEIGHTS HOMEOWNERS' ASSOCIATION**

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AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
CORDILLERAS HEIGHTS HOMEOWNERS' ASSOCIATION

This Amended and Restated Declaration of Covenants, Conditions and Restrictions is made on the date hereinafter set forth by Cordilleras Heights Homeowners' Association, Inc., a California nonprofit mutual benefit corporation (hereinafter sometimes referred to as the "Association").

RECITALS

A. WHEREAS, the Association is the successor in interest to Redwood City Associates, which, as Declarant, executed that certain Declaration of Restrictions was recorded on July 7, 1978, in Reel 7759, Pages 2415 through 2448, inclusive, in the Official Records of San Mateo County, California (the "1978 Declaration");

B. WHEREAS, a First Amendment to Declaration of Restrictions Cordilleras Heights was recorded on November 28, 1983, as Document No. 83-130822, in the Official Records of San Mateo County, California;

C. WHEREAS, a Second Amendment to Declaration of Restrictions Cordilleras Heights was recorded on June 1, 1984, as Document No. 84-059016, in the Official Records of San Mateo County, California;

D. WHEREAS, a Third Amendment to Declaration of Restrictions Cordilleras Heights was recorded on August 13, 1985, as Document No. 85-082165, in the Official Records of San Mateo County, California;

E. WHEREAS, a Declaration of Annexation for Phase 2 was recorded on October 19, 1979, in Reel 7905, Image 1871 through 1873, inclusive, and a Declaration of Annexation for Phase 3 was recorded on July 20, 1984, as Document No. 84-080302, both in the Official Records of San Mateo County, California;

F. WHEREAS, the 1978 Declaration, as amended, establishes certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with and are binding upon all parties having or acquiring any right, title, or interest in that certain parcel of real property located in the City of Redwood City, County of San Mateo, State of California, and more particularly described as follows:

All real property shown on the subdivision maps entitled "Cordilleras Heights Unit No. 1" filed for record on July 7, 1978, in Volume 97 of Maps at Page 72 and 73, "Cordilleras Heights Unit No. 2" filed for record on October 19, 1979, in Volume 99 of Maps at Pages 89 and 90, and "Cordilleras Heights Unit No. 3" filed for record on July 19, 1984, in Book 111 of Maps at Pages 78 and 79, all in the Official Records of the County of San Mateo, State of California.

G. WHEREAS, Members, constituting at least fifty percent (50%) of the voting power of the Association, desire to amend, modify, and otherwise change the 1978 Declaration, as amended, pursuant to Section 6.06 thereof.

H. NOW, THEREFORE, pursuant to Section 6.06 of the 1978 Declaration, as amended, Members, constituting at least fifty percent (50%) of the voting power of the Association, do hereby declare that the aforesaid 1978 Declaration, as amended, be and hereby is, AMENDED AND RESTATED IN ITS ENTIRETY as set forth within this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Cordilleras Heights Homeowners' Association. This Amended and Restated Declaration of Covenants, Conditions and Restrictions of Cordilleras Heights Homeowners' Association replaces and supersedes all previously-recorded Declaration of Covenants, Conditions and Restrictions of Cordilleras Heights Homeowners' Association;

I. IT IS FURTHER HEREBY DECLARED that all of the real property described herein constitutes a planned development within the meaning of *Civil Code* section 4175;

J. IT IS FURTHER HEREBY DECLARED that all of the real property described herein is held and owned and shall be held, owned, operated, managed, conveyed, hypothecated, encumbered, leased, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the said real property and every part thereof, and of fostering the development, management, improvement, enjoyment, and sale of the said real property and any part thereof; and

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

ARTICLE 1

DEFINITIONS

1.1 Additional Charges. “Additional Charges” shall mean all costs, fees, charges, and expenditures, including without limitation, interest, late charges, attorneys’ fees, recording and filing fees, and all other costs actually incurred by the Association in collecting and/or enforcing payment of Assessments, fines, and/or penalties.

1.2 Annual Assessment. “Annual Assessment” shall have the meaning set forth in Section 8.6. “Annual Assessment” may also be referred to as “Regular Assessment” or “Dues.”

1.3 Architectural Review Committee. “Architectural Review Committee” and “ARC” shall mean the Architectural Review Committee, if any, created pursuant to Article 7 of this Declaration and Article 10 of the Bylaws.

1.4 Articles. “Articles” shall mean the Articles of Incorporation of Cordilleras Heights Homeowners’ Association, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.

1.5 Assessments. “Assessments” shall mean any or all of the following: Annual Assessment, Special Assessments, and Reimbursement Assessments.

1.6 Association. “Association” shall mean the Cordilleras Heights Homeowners’ Association, its successors and assigns.

1.7 Board of Directors. “Board of Directors” or “Board” shall mean the governing body of the Association.

1.8 Bylaws. “Bylaws” shall mean the Amended and Restated Bylaws of Cordilleras Heights Homeowners’ Association and any duly adopted amendments thereto.

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

1.10 City. “City” shall mean the City of Redwood City.

1.11 Civil Code. “Civil Code” shall mean the California Civil Code as amended from time to time.

1.12 Common Area. “Common Area” shall mean all real and personal property, improvements and airspace owned by the Association for the common use and enjoyment of the Owners and Residents of the Development including, but not limited to: gates; open space; private streets; walkways; sidewalks; landscape median along Bennett Road and Upload Road between the private street and Upland Road; storm drain structures and facilities; landscaping and irrigation systems; and utility facilities. The Common Area is comprised of Lot 1, as shown on the Map, and all improvements located thereon.

1.13 County. “County” shall mean the County of San Mateo.

1.14 Declaration. “Declaration” shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Cordilleras Heights Homeowners’ Association, recorded in the Office of the County Recorder of San Mateo County, California, and any amendments thereto. The Declaration may also be referred to as the “CC&Rs.”

1.15 Development. “Development” shall mean all the real property described in this Declaration which comprises the Cordilleras Heights planned development, including such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.16 Governing Documents. “Governing Documents” shall mean the Articles, Bylaws, Declaration and Rules adopted by the Board and distributed to the Members.

1.17 Lot. “Lot” shall mean a “separate interest” as defined in *Civil Code* section 4185 and any plot of land shown upon any recorded Subdivision Map of the Development upon which a Residence has been constructed. There are 45 Lots in the Development.

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

1.19 Majority of a Quorum. “Majority of a Quorum” shall mean a majority of the votes cast in any lawful vote or election by the Members in which the number of votes cast equals or exceeds the number required to establish a quorum.

1.20 Member. “Member” shall mean an Owner.

1.21 Mortgage. “Mortgage” shall mean a deed of trust as well as a mortgage in the conventional sense.

1.22 Mortgagee. “Mortgagee” shall mean a beneficiary pursuant to a deed of trust as well as pursuant to a Mortgage.

1.23 Owner. “Owner” shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Development.

1.24 Reimbursement Assessment. “Reimbursement Assessment” shall have the meaning set forth in Section 8.9.

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

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

1.27 Residence. “Residence” shall mean a residential structure located upon a Lot which is designed for human residential use and occupancy. The term “Residence” shall include any garage, porch, stoop, deck, balcony, entry steps, patio, etc. serving the Residence.

1.28 Resident. “Resident” shall mean any person who resides on a Lot within the Development whether or not such person is an Owner as defined in Section 1.23 above.

1.29 Rules. “Rules” shall mean the rules, regulations, and policies governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time.

1.30 Special Assessment. “Special Assessment” shall have the meaning set forth in Section 8.7.

1.31 Subdivision Map. “Subdivision Map” or “Map” shall collectively mean that certain subdivision map Cordilleras Heights Unit No. 1 filed for record on July 7, 1978, in Volume 97 of Maps at Page 72173, and that certain subdivision map for Cordilleras Heights Unit No. 2 filed for record on October 19, 1979, in Volume 99 of Maps at Pages 89 and 90, both in the Official Records of the County of San Mateo, State of California

1.32 Total Voting Power. “Total Voting Power” shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one vote for each Lot.

ARTICLE 2

HOMEOWNERS ASSOCIATION

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

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

2.3 Voting. Only Members shall be entitled to vote, and only one vote shall be cast for each Lot, as more particularly set forth in the Bylaws.

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

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

2.6 Assessments. The Association shall have the power and duty to levy and collect Assessments, as more particularly set forth in Article 8 of this Declaration.

2.7 Acquisition of Property. The Board, acting on behalf of the Association, shall have the power to acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, and maintain real or personal property in

connection with the affairs of the Association; provided, however, that in any fiscal year acquisitions by purchase of items not included in the reserve budget shall not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, except upon the approval of at least a majority of the Total Voting Power of the Association. The foregoing Member approval requirement shall not apply to the acquisition of a Lot by the Association via foreclosure.

2.8 Capital Improvements. The Board of Directors shall have the power and authority to provide for the construction, installation, or acquisition of Capital Improvements upon the Common Area, provided that in any fiscal year expenditures for Capital Improvements shall not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, except upon the approval of at least a majority of the Total Voting Power of the Association.

2.9 Sale or Transfer of Association Property. Except as otherwise provided herein or by law, the Board of Directors shall not in any fiscal year sell, lease, or otherwise transfer property owned by the Association having a value in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the approval of at least a majority of the Total Voting Power of the Association; *provided, however,* that the foregoing Member approval requirement shall not apply to the sale or transfer of any Lot which is owned by the Association as a result of the Association having acquired such Lot via foreclosure.

2.10 Sale or Transfer of Common Area. Except as otherwise provided herein or by law, the Board of Directors shall not sell, lease, or otherwise transfer Common Area property without the approval of at least sixty- seven percent (67%) of the Total Voting Power.

2.11 Easements to Owners. The Board shall have the power to grant and convey easements, licenses for use and rights of way in, over, or under the Common Area or any portion thereof to Lot Owners, for such purposes as the Board deems to be appropriate and not inconsistent with the purposes and interests of the Association, subject to the limitations set forth in the Governing Documents. Unless an exception as set forth in *Civil Code* section 4600 applies, the approval of a Majority of a Quorum shall be required before the Board may grant exclusive use of any portion of the Common Area to a particular Owner.

2.12 Safety and Security. Neither the Association nor the Board is responsible for ensuring the safety and security of the Association's Residents, guests or invitees. Neither the Association nor the Board has police powers.

ARTICLE 3

OWNERSHIP RIGHTS AND EASEMENTS

3.1 Common Area. Subject to the provisions of the Declaration, the Common Area shall be held, maintained and used to meet the common interests of the Members of the Association and their families, tenants, and guests as provided in the Governing Documents, and there shall be no use of the Common Area except by such persons.

3.2 Owners' Non-Exclusive Easements of Enjoyment. Every Owner of a Lot shall have a non-exclusive easement of use of and enjoyment in, to, and throughout the Common Area of the Development for ingress, egress, and support over and through the Common Area. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Lot, subject to the following rights and restrictions:

(a) The right of the Board of Directors to establish and enforce reasonable Rules governing the use of the Common Area and facilities thereon;

(b) The right of the Board to charge reasonable admission and other fees for the use of any facilities situated upon the Common Area;

(c) The right of the Board to suspend an Owner's rights and privileges as a Member for any period during which any Assessment against such Owner's Lot remains unpaid and/or for infraction of the Governing Documents of the Association;

(d) The right of the Board, as set forth in Section 3.9, to grant easements and rights of way in, on, over, or under the Common Area subject to the limitations set forth in Section 2.11 and *Civil Code* section 4600;

(e) The right of the Board to mortgage, pledge, encumber, or otherwise hypothecate the Common Area and facilities thereon as security for money borrowed by the Association, subject to any Member approval requirements set forth in this Declaration or the Bylaws; and

(f) The right of the Association or its authorized agents, as provided in this Declaration, to perform its obligations pursuant to this Declaration, including obligations with respect to construction, maintenance, repair, or replacement for the benefit of the Common Area or the Owners in common.

3.3 Acquisition of Ownership Interest. Any person who acquires title to a Lot or any ownership interest within the Development must notify the Association of their acquisition of an ownership interest. Notice must be provided in writing, to

the Association's managing agent, within thirty (30) days of the person's acquisition of an ownership interest.

3.4 Delegation of Rights of Use and Enjoyment. Any Owner may delegate their rights of use and enjoyment, including easements, in the Development to the members of his household, tenants, guests and invitees, subject to the terms of the Governing Documents. Each Owner shall notify the Association's managing agent of the names of any tenants of such Owner's Lot. Each Owner and/or tenant shall also notify the Association's managing agent of the names of all members of their household to whom such Owner or tenant has delegated any rights of enjoyment in the Development as provided herein and the relationship which each such person bears to such Owner or tenant. Any rights of enjoyment delegated pursuant to this Section are subject to suspension to the same extent that rights of Owners are subject to suspension as provided in the Governing Documents. Notwithstanding the above, a leasing or renting Owner shall be deemed to have delegated to tenants all rights of use and enjoyment of Common Area facilities. The renting and leasing of Lots shall be subject to the provisions of Article 5 of this Declaration.

3.5 Common Area Construction. Except as may be authorized by the Board, no person or entity, other than the Association or its duly authorized agents, shall construct, reconstruct, refinish, alter, or maintain any improvement upon the Common Area, or shall make or create any excavation or fill upon the Common Area, or shall change the natural or existing drainage of the Common Area, or shall plant, remove, or destroy any seed, plant material, tree, shrub, or other vegetation upon the Common Area.

3.6 Mechanic's Liens. In the event there shall be recorded against the Common Area a Notice of Mechanic's Lien for, or purporting to be for, labor or materials alleged to have been furnished or delivered for any Owner within the Development or their Lot, such Owner shall forthwith cause such lien to be discharged by payment, bond, or otherwise. If the Owner fails to cause the lien to be discharged, the Board may send written notice to the Owner specifying that unless the Owner causes the lien to be discharged within five (5) days from the date of such notice, the Board may cause the lien to be discharged. Within such five (5) day period, the Owner shall be permitted a hearing before the Board regarding the validity of such lien and any offsets or defenses thereto. At that time, the Board shall determine whether the lien adversely and improperly affects and encumbers the rights and interests of the Association or the other Owners. If the Board of Directors determines that the lien does adversely and improperly affect and encumber such rights and interests and that adequate protection of such rights and interests has not been provided, the Board may cause the lien to be discharged by payment, bond, or otherwise. The Board shall have the right to levy a Reimbursement Assessment against the subject Owner for all amounts paid by the Association together with interest thereon at the legal rate and all costs and

expenses incurred in connection with discharging a lien, including reasonable attorneys' fees.

3.7 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto and/or as between adjacent Lots due to the unwillful placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon in accordance with the terms of the Declaration; *provided, however*, that in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, a tenant, or the Association.

In the event that a structure on any Lot is partially or totally destroyed and then repaired or rebuilt in accordance with the provisions of the Declaration, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. In addition, each Lot and its Owner(s) are hereby declared to have an easement for retaining walls, footings, and all other encroachments as originally constructed over each adjoining Lot and/or Common Area for the maintenance thereof, together with an easement for the drainage of water from gutters and all other encroachments over each such adjoining Lot and/or Common Area.

3.8 Utility Easements. Easements over and under the Development or any portion thereof for the installation, repair, maintenance, and replacement of electric, telephone, water, gas, and sanitary sewer lines and facilities, heating and air-conditioning facilities, cable, or master television antenna lines, drainage facilities, walkways, and landscaping as may be hereafter required or needed to service the Development, are reserved by and shall exist in favor of the Association, together with the right to grant and transfer the same. The Association shall maintain all utility installations located in the Common Area except for: (i) those installations maintained by utility companies, public, private, or municipal and (ii) utility installations for which Lot Owners are responsible, as provided in Section 6.3.1. The Association shall pay all charges for utilities supplied to the Development except those metered or charged separately to the Lots.

3.9 Easements Granted by the Board. The Board shall have the power to grant and convey to any person or entity easements and rights of way, in, on, over, or under the Common Area for the purpose of constructing, erecting, operating, or maintaining thereon, therein, or thereunder overhead or underground lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkler and/or irrigation systems water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and

for any other purposes deemed by the Board to be appropriate and not inconsistent with the purposes and interests of the Association; *provided, however*, that no such easements may be granted if such easement would interfere with the use, occupancy, or enjoyment by an Owner or Resident of any Lot and any existing exclusive easements over Common Area appurtenant thereto, if any, without the consent of the Owner(s) affected.

3.10 No Right to a View. Owners do not have the right to an unobstructed or any other type of view from their Lot. This Declaration shall not be construed as granting any Owner a right to a view and neither the Association nor any Member shall have an obligation to take any action regarding or to preserve or provide for a view from any Lot. This shall be the case even if an Owner purchased a "view Lot" from the Declarant. Owners should anticipate that the view, if any, which may exist at the time of their Lot purchase will change during the period of their ownership.

3.11 Partition Prohibited. There shall be no judicial partition of the Development, or any part thereof, nor shall any Owner or any person acquiring any interest in the Development or any part thereof seek any judicial partition thereof; *provided, however*, that if any Lot is owned by two or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition by sale as between such co-tenants.

ARTICLE 4

USE RESTRICTIONS

4.1 Residential Use. Except to the extent permitted by Sections 4.3 and 4.4, below, Lots shall be occupied and used for residential purposes only.

4.2 Rental of Lots. The rental or lease of any Lot or ADU within the Development shall be subject to the provisions of the Governing Documents and Article 5 of this Declaration.

4.3 Restriction on Businesses. Lots and Exclusive Use Common Area shall be used for residential purposes only; no part of the Development shall be used or caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Owners or Residents of the Lot may use any portion of a Lot as an office, provided that: the primary use of the Lot is as a residence; no advertising or signage is used in any manner in connection with the office use; no customers, clients or patients enter the Lot on any regular basis; and the use is in compliance with all local ordinances. The Board shall have the authority to adopt Rules regarding the use of offices within the Development in order to maintain the residential characteristics of the Development.

4.4 Child Care Facilities. Child care facilities may be maintained on any Lot within the Development so long as they comply with all governmental requirements. The owner/operator of any permitted day care facility shall provide the Association with prior written notice as to its operation and comply with all local and state laws regarding the licensing and operation of a day care center and, in addition, shall:

(a) Name the Association as an additional insured on the liability insurance policy or bond carried by the owner/operator of the day care center, as provided pursuant to *Health and Safety Code* section 1597.531. This Section 4.4(a) is intended to be and shall be conclusively deemed to be the written request to the operator or owner from the Association as specified in *Health and Safety Code* section 1597.531;

(b) Defend, indemnify and hold the Association harmless from any claim, demand, loss, liability, action or cause of action arising out of the existence and operation of the day care center;

(c) Abide by and comply with all of the Association's Governing Documents, including all Rules;

(d) Supervise and be completely responsible at all times for children for whom day care services are provided while they are within the Development; and

(e) Cooperate with the Association if the Association's insurance agent or carrier requires proof of insurance, proof of the agreement of the owner or operator of the center to these conditions, or other reasonable requests.

4.5 Offensive Conduct, Nuisances, Noise. No harmful or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable disturbance or annoyance to any Residents of the Development, or which shall in any way interfere with their use of the Common Area or the use and enjoyment of their Lots. Without limiting any of the foregoing, no Resident shall permit noise, including but not limited to the barking of dogs, to emanate from the Resident's Lot, which would unreasonably disturb another Resident's enjoyment of their Lot or of the Common Area.

4.6 Use of the Common Area. All use of Common Area is subject to the Governing Documents and no modifications of any type shall be made to the Common Area without the express written permission of the Board. The Common Area shall be kept free of rubbish, debris, and other unsightly or unsanitary materials. Each Owner shall avoid causing any damage to the Common Area. No portion of the Common Area, shall be monopolized by any Owner, group of

Owners, Residents, or tenants without the prior written approval of the Board of Directors.

4.7 Hazards. There shall be no obstruction of any part of the Common Area. Nothing shall be done, placed, or kept within the Development that will increase the rate of insurance or result in the cancellation of insurance pursuant to any insurance policy obtained by the Association, or which will be in violation of any governmental statute, ordinance, rule, or regulation. Nothing shall be stored in the Common Area without the prior consent of the Board. Each Owner and Resident shall comply with all requirements of all federal, state, and local governmental authorities and all laws, ordinances, rules and regulations applicable to their Lot.

4.8 Requirement of Architectural Approval. As addressed in greater detail in Article 7, construction, installation, modification, or alteration of buildings, common systems (including plumbing and electrical systems), outdoor structures (including Accessory Dwelling Units, hereafter referred to as "ADU," or "ADUs"), outbuildings, tents, shacks, trailers, sheds or temporary buildings of any kind, landscaping, and outdoor lighting are subject to approval of the Architectural Review Committee and/or Board.

4.9 Accessory Dwelling Units.

4.9.1 Definitions.

(a) "Accessory Dwelling Unit" or "ADU" shall mean an attached or detached residential dwelling which provides separate and independent living space, as set forth in Government Code section 65852.2.

(b) "Junior Accessory Dwelling Unit" or "JADU" shall mean an ADU which is no more than 500 square feet in size and is located entirely within an existing single-family residence, as set forth in Government Code section 65852.22.

4.9.2 Construction of ADUs. The prior written approval of the Architectural Review Committee and/or the Board is required for the construction or installation of an ADU or JADU, pursuant to Article 7, below. Any request to construct or install an ADU or JADU must include plans and specifications that meet all applicable requirements found in the Governing Documents, in addition to all applicable state and local laws.

4.9.3 Use of ADUs and JADUs. ADUs and JADUs are for residential use only. All Residents of the Development must comply with the Governing Documents, including but not limited to those restrictions related to parking, animals and pets, trash disposal, and the prohibition on activities that are harmful, offensive, or create a nuisance.

4.9.4 Rental of ADUs and JADUs. Owners may rent ADUs, subject to the provisions of Article 5 below.

4.10 Satellite Dishes and Antennas. No outside radio, television, or telecommunications dish, antenna, wire, or other receiving or transmitting device shall be erected, constructed, or maintained on any Lot, except (i) those expressly approved by the Board or the Architectural Review Committee, or (ii) those that, by law, cannot be prohibited. It is the intention of this Section 4.10 to restrict outside radio, television, or telecommunications dishes, antennas, wires, and other receiving or transmitting devices in the Development to the fullest extent permitted by law. The Board may adopt Rules regarding the installation and maintenance of satellite dishes and antennas and related wiring for all telecommunications devices. Owners are strictly prohibited from installing satellite dishes, antennas, and/or other telecommunications receiving or transmitting devices in Common Area.

4.11 Solar Energy Systems. Solar energy systems as defined in *Civil Code* sections 801.5(a)(1) and (2) are subject to prior architectural approval pursuant to Article 7. Nothing in this Declaration shall be deemed to authorize or permit any Owner to install any solar energy system upon any portion of the Common Area. The Board may adopt Rules regarding the installation and maintenance of solar energy systems.

4.12 Trash Disposal. Trash, garbage, accumulated waste plant material, or other waste and refuse shall be deposited only in covered sanitary containers. Such containers and dumpsters shall be concealed from view, subject to Rules adopted by the Board. No Owner or Resident shall permit or cause any garbage, trash, or other waste or refuse to be kept or accumulate upon any portion of the Common Area, except in such containers. Owners shall be responsible for any violations of this Section 4.12 and any applicable Rules adopted by the Board committed by their tenants, guests, and invitees. The Association shall have the right to remove any extraordinary accumulation of rubbish, trash, garbage or debris to an offsite trash collection facility at the offending Owner's expense.

4.13 Construction Materials, Construction Debris. No portion of the Development shall be used for the storage of building materials unless approved by the Board or specifically authorized by the Rules. All construction debris shall be picked up and deposited daily in an appropriate container specifically designed for that purpose and provided by or on behalf of the Owner.

4.14 Machinery and Equipment; Vehicle Maintenance. Unless approved by the Board, no power machinery or equipment shall be permitted within the Development except as is customary and necessary in connection with approved construction and/or Residents' non-commercial use. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease,

fire hazard, interference with radio or television reception, and any other relevant factors. No vehicle maintenance is permitted in the Development, with the exception of emergency work.

4.15 Signs, Banners, Flags. No sign of any kind shall be displayed to the public view from any portion of the Development except:

- (a) Signs required by legal proceedings;
- (b) Noncommercial signs or posters no larger than nine (9) square feet in size and noncommercial flags or banners no larger than fifteen (15) square feet in size, displayed upon an Owner's Lot, and limited to the fullest extent permitted by *Civil Code* section 4710;
- (c) A single sign of customary and reasonable dimension and design complying with the Association or Architectural Rules and reasonably located on a Lot advertising a Lot for sale or rent;
- (d) Other signs which by law cannot be prohibited;
- (e) A flag of the United States, subject to any Federal, State, City or County restrictions as to size and as to time, place, and manner of display;
- (f) Signs approved by the Board located at or near any entrance to the Development identifying the Development;
- (g) Signs required for traffic control and regulation of streets or open areas within the Development; and
- (h) Signs on the Common Area as approved by the Architectural Review Committee and/or Board for a purpose reasonably related to the affairs of the Association.

4.16 Prohibited Vehicles. No trailer, camper, mobile home, recreational vehicle, boat, golf cart or similar equipment or any commercial vehicle or truck other than a standard size pickup truck (i.e., one ton or less), shall be parked, kept, stored, or permitted to remain upon any area within the Development, other than wholly within a garage and temporarily in accordance with the Rules. All vehicles parked within the Development must have current registration and may not be dilapidated, inoperable, or abandoned. The term "commercial vehicle" shall not include any sedan or standard size pickup truck which is used for both business and personal uses, provided that any signs or markings of a commercial nature on such a vehicle shall be unobtrusive and inoffensive as determined by the Board.

4.17 Parking Enforcement; Parking Rules. In addition to the provisions of Section 4.16 above, the Board shall have the power and authority to adopt, promulgate, and enforce parking Rules and shall have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to vehicles and parking. Such power shall include the power and authority to cause the towing, at the vehicle owner's expense, of vehicles which are parked within the Development in violation of any of the provisions of the Governing Documents. Costs incurred by the Association relating to the towing and/or storage of any vehicle parked in violation of any provision of the Governing Documents shall be assessed as a Reimbursement Assessment against the Lot Owner responsible or whose household members, tenants, or guests are responsible for the presence of such vehicle. Parking Rules adopted by the Board may include, but are not limited to, restrictions on the length of time that vehicles may be parked in the Common Area, procedures regarding the registration of vehicles, and the issuance of parking permits or tags.

4.18 Garages/Driveways. Each Owner and Resident shall keep their garage and driveway in a sanitary and safe condition. Each garage door shall remain closed except as necessary to permit entry and exit of vehicles or to provide ventilation for individuals working in the garage area.

4.19 Window Coverings. Drapes, window shades, and other window coverings installed in the windows of any Residence shall comply with any Rules adopted by the Board. In no event shall aluminum foil, newspaper, cardboard, blankets or similar materials be placed in windows.

4.20 Outbuildings. No outbuilding, tent, shack, trailer, shed, or temporary building of any kind shall be located within the Development except when specifically authorized by the Board. Owners shall be responsible for the maintenance, repair and replacement of any outbuilding located on their Lot.

4.21 Subdivision or Merger of Lots. No Lot may be subdivided for any reason, nor may any two Lots be combined or merged.

4.22 Drainage. No Resident shall do any act or construct any improvement which would interfere with the natural or established drainage systems or patterns within the Development without the prior written approval of the Board.

4.23 Mineral Exploration. No Lot shall be used to explore or remove any water, oil, hydrocarbons, or minerals of any kind without the approval of the Board, and only if permitted by local ordinance.

ARTICLE 5

RENTING OR LEASING

5.1 Requirements for Renting. An Owner who wishes to rent their Lot and Residence shall:

(a) Do so pursuant to a written lease or rental agreement. The lease or rental agreement shall be for an initial term of at least six (6) months and shall expressly provide that its terms are subject to all the provisions of the Governing Documents and that failure of the tenant, members of the tenant's household, invitees or guests to comply with applicable provisions of the Governing Documents shall constitute a breach of the terms of such lease or rental agreement;

(b) File a copy of the signed lease or rental agreement with the Board within five (5) days after the lease becomes effective. The Owner may redact or blackout the financial terms (i.e., the amount of rent and security deposit) from the copy of the lease or agreement provided to the Board;

(c) Comply with the requirements set forth in Section 10.3, below, namely, recommend the tenant to obtain and maintain a "renter's policy" (also known as a "HO-4" policy) and provide to the Board a certificate from the tenant's insurer certifying that the recommended insurance pursuant to Section 10.3 has been procured and is in full force and effect;

(d) Provide the tenant(s) with a copy of the Governing Documents and any subsequent changes thereto; and

(e) Notify the Board of the name of each tenant and of the members of the tenant's household; and

(f) Have the duty and responsibility to keep the Board apprised of their current address and telephone number.

5.2 Rental of Entire Lot and Residence. As used herein, the term "rent" shall mean leased, rented, or occupied, whether or not for compensation of any kind. No Owner shall rent or lease less than the entire Lot and Residence, except to the extent a Resident Owner (a) rents to a roommate, as permitted by Section 5.3, or (b) rents a "hosted rental," i.e., a room, ADU, or JADU on a Lot rented to another person while the Owner lives in the non-rented portion of the Lot during the entire rental period. ADUs and JADUs may not be sublet. The preceding sentences are intended to prohibit the operation of a rooming house, bed and breakfast, or similar operation within the Development.

5.3 No Subletting or Short-Term Rentals; Roommates. No portion of any Lot or Residence shall be sublet nor shall any Owner lease a Lot or Residence for transient or hotel purposes. Owners are prohibited from offering all or part of any Lot or Residence for short-term rental (i.e., for a period of less than six (6) months) through Airbnb, VRBO or other similar websites or entities, or by any other rental agreement which includes as consideration payment of money, trade or barter of other goods or services, or conveyance of property occupancy rights. However, a resident Owner may share their Lot or Residence with a roommate or other persons with whom the Owner maintains a common household and such persons may pay rent to the resident Owner for a period of thirty (30) days or more. An Owner shall be considered a "Resident Owner" if the Lot is the Owner's primary residence, as documented by at least two (2) of the following: motor vehicle registration, driver's license, voter registration, tax documents showing the Lot as the residence for purposes of a homeowner's tax exemption, or a utility bill.

5.4 Time-Share Arrangements Prohibited. No Lot, Residence, or ADU shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time-sharing agreement, plan, program or arrangement, including, without limitation, any so-called "vacation license," "travel club," "extended vacation," or other membership or time interval ownership arrangement. The term "time-sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement pursuant to which the right to use, occupy, or possess any Lot, Residence or ADU in the Development rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like-kind use privileges, according to a fixed or floating interval or period of time. This Section shall not be construed to limit the personal use of any Lot, Residence, or ADU in the Development by any Owner or their or its social or familial guests.

5.5 Implementation. Upon request from the Board after this Declaration is recorded, each Owner renting or leasing a Lot or Residence shall provide such information as the Board may reasonably require to implement the provisions of this Article 5, including but not limited to the names of the tenants and the members of the tenants' household and the duration of the lease. Upon request by the Board, such Owners shall also provide the Board with a statement signed by the tenants acknowledging that they have read and understand the Association's Governing Documents and will abide by the provisions contained therein.

5.6 Association as Third-Party Beneficiary. The Owner and the tenant(s) of any Lots subject to this Declaration shall be conclusively deemed to have agreed that the Association is an intended third-party beneficiary to the contract between the Owner and the tenant(s); that failure of the tenant, members of the tenant's household, or guests to comply with the Governing Documents shall constitute a breach of the terms of the contract between the Owner and the tenant(s); and that

the Association shall have the right but not the obligation to enforce the contract and to pursue every remedy available pursuant to the contract, pursuant to the Declaration, including but not limited to the rights granted pursuant to Section 5.7 below, or pursuant to the law, including eviction, to the same extent as the Owner of the Lot. The Association's right to maintain an eviction action shall arise only in the event that: (i) the Association has given notice to the Owner detailing the nature of the infraction and the Owner has had a reasonable opportunity to take corrective action or to appear before the Board to present arguments against eviction by the Association, and (ii) the Owner has not taken action to prevent and/or correct the actions of the tenant giving rise to the damage or nuisance.

5.7 Assignment of Rents as Security for Payment of Liens. As security for the payment of all liens provided for pursuant to the Declaration, including those described in Section 8.2, each Owner hereby gives to and confers upon the Association the right, power, and authority during the continuance of such ownership to collect the rents, issues, and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligations pursuant to the Governing Documents in payment of any indebtedness to the Association or in performance of any agreement thereunder including but not limited to those set forth in Section 8.2, to collect and retain such rents, issues, and profits as they may become due and payable. Upon any such default, the Association may at any time, upon ten (10) days' written notice to such Owner, then (either in person, by agent, or by a receiver to be security for such indebtedness) enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any such indebtedness, and in such order as the Association may determine or as required by applicable law. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, and the application thereof as aforesaid, shall not cure or waive any default pursuant to the Governing Documents or invalidate any act done pursuant to this Declaration, including but not limited to imposition of a Reimbursement Assessment and any Additional Charges. The assignment of rents and powers described in this Section shall not affect, but shall in all respects be subordinate to, the rights and power of the holder of any first Mortgage on any Lot, or any part thereof, to do the same or similar acts.

5.8 Owner Responsible for Tenant's Actions; Indemnification of Association. Each Owner leasing or renting a Lot shall be responsible and strictly liable to the Association for the action of such Owner's tenant(s) in or about all Lots and Common Area and for each tenant's compliance with the provisions of the Governing Documents. To the fullest extent permitted by law, every Owner of a Lot that is occupied by persons other than the Owner pursuant to a rental agreement or lease or otherwise, agrees to and shall indemnify and defend the Association, its Directors and agents and shall hold them harmless from and

against any cost, loss, claim or damages of any kind, arising out of the conduct or presence of the occupants of the Lot, including but not limited to attorneys' fees, any claims for consequential damages, and any claims arising or alleged to arise out of the enforcement or non-enforcement by the Association of the Governing Documents with respect to such occupants. Any amounts owed pursuant to this Section may be assessed as a Reimbursement Assessment.

ARTICLE 6

MAINTENANCE, REPAIR AND REPLACEMENT RESPONSIBILITIES

6.1 Common Area. The Association shall provide maintenance, repair, and replacement of the Common Area and all facilities, improvements, and landscaping thereon including but not limited to: gates; open space; private streets; walkways; sidewalks; landscape median along Bennett Road and Upload Road between the private street and Upland Road; storm drain structures and facilities; landscaping and irrigation systems; and utility facilities (except for those utility facilities which are maintained by public or private utility companies or agencies and sewer lateral lines located outside the boundaries of a separate interest and exclusively serving one Lot), keeping such property in good condition and repair.

6.2 Lots and Residences. Except as otherwise specifically provided in this Declaration, each Owner shall provide maintenance, repair and replacement of the Owner's Lot, including the Residence, driveways and other improvements located thereon, in a manner consistent with the standards established by the Governing Documents and in compliance with the Architectural Rules:

6.3 Other Components.

6.3.1 Utility Lines Serving Lot. Each Owner shall be responsible for the maintenance, repair and replacement of sewer, water, electrical and other utility lines and fixtures located on their Lot. Additionally, each Owner shall be responsible for the maintenance, repair and replacement of the lateral sewer line that exclusively serves their Lot, even if located outside of the Lot. If the repair to any utility lines or fixtures impacts or affects Common Area, the Owner must obtain the written approval of the Board before proceeding with repairs. The provisions of this Section shall not be construed to permit any interference with or damage to the structural integrity of any building.

6.4 Authority for Entry of Lot. The Association or its agents may enter any Lot (excluding the Residence) whenever such entry is necessary, in the Board's sole discretion, in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible or which it is authorized to perform. Such entry shall be made with as little inconvenience to the Residents as practicable and only upon reasonable advance

written notice of not less than twenty-four (24) hours, except in emergency situations.

6.5 Reimbursement Assessments for Damage to or Caused by Owner-Maintained Components. If, in the course of performing its obligations to maintain, repair and replace, the Association and/or its agents discover damage to components not otherwise the responsibility of the Association, the Association has the right, but not the obligation, to repair or replace the damaged component for which the Owner is responsible. The Owner shall reimburse the Association for the cost of said repair or replacement, which may be levied as a Reimbursement Assessment. If, for example, in the course of repainting the Residence exteriors, the Association and/or its agents discover dry rot in the siding and/or trim, the Association may repair or replace the damaged materials and may levy a Reimbursement Assessment against the Lot Owner to reimburse the Association for repair and replacement costs.

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

6.7 Limitation on Association Responsibility and Liability. Except as specifically provided in this Article 6, the Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any improvement therein, except to the extent that the need for such maintenance, repair or replacement results from the willful misconduct or gross negligence of the Association, its employees, contractors, or agents.

6.8 Repair of Damage Caused by Wood-Destroying Pests or Organisms and Other Pests. The Association shall bear the costs for the repair and maintenance of Common Area damaged by the presence of wood-destroying pests or organisms or other pests. Each Lot Owner is responsible for costs of repair and maintenance of any improvements on the Lot, including the Residence, damaged by the presence of wood-destroying pests or organisms or other pests. Such responsibility shall include the responsibility for periodic maintenance to prevent the occurrence or re-occurrence of wood-destroying pests or organisms or other pests. The expense of any temporary relocation during such repair and maintenance of any Lot and/or Residence shall be the responsibility of the Lot Owner. The Association's responsibility for maintaining, repairing and/or replacing

the Residence exteriors shall include the responsibility for the repair of damage that results from the presence of wood-destroying pests or organisms or other pests and periodic maintenance (on a schedule to be determined by the Board) to prevent the occurrence or re-occurrence of wood-destroying pests or organisms or other pests.

6.9 Compliance with Architectural Rules. An Owner's right and responsibility for maintaining, repairing or replacing any portions of their Lot shall be subject to any applicable provisions of the Governing Documents relating to landscaping and architectural control, including Article 7.

6.10 Board Discretion. The Board shall have the absolute discretion to determine whether any maintenance, repair, or replacement, which is the responsibility of an Owner, is necessary to correct a safety hazard for the neighbor(s) adjacent to an Owner's Lot or to preserve the appearance and value of the property within the Development or any portion thereof, and may notify an Owner of the work the Board deems necessary. In the event an Owner fails to perform such work within sixty (60) days after notification by the Board to the Owner the Board may, after written notice to the Owner, and the opportunity of a hearing before the Board, cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment. In the case of an emergency, or if the Owner's failure to perform work presents a safety hazard, the Board may cause such work to be done immediately, without notice to the Owner, and charge the cost thereof to the Owner as a Reimbursement Assessment.

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

ARTICLE 7

ARCHITECTURAL REVIEW

7.1 Architectural Approval Required. The prior written approval of the Architectural Review Committee ("ARC") and/or Board is required for the following improvements and/or modifications.

7.1.1 Improvements and Modifications. Except for improvements made or constructed by or on behalf of the Association, no exterior addition or modification of any kind, including but not limited to any fence, wall, obstruction, window, exterior door, balcony, screen, patio cover, tent, awning, roof, pool, outdoor lighting, improvement or other structure of any kind, and/or landscaping, shall be commenced, erected, painted or maintained within the Development, nor shall any exterior addition to or change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same have been submitted to and approved in writing by the Architectural Review Committee and/or Board as provided in this Article 7.

7.1.2 Satellite Dishes and Antennas. No mast, pole, tower, antenna, receiver, transmitter or satellite dish, to the extent restricted by Section 4.10, may be commenced, erected or installed without the prior written approval of the ARC and/or Board as provided in this Article 7.

7.1.3 Solar Energy Systems. No installation or modification of a solar collector, solar panel, or other solar energy device or system in Common Area is permitted without the prior written approval of the Architectural Review Committee and/or Board as provided in this Article 7.

7.1.4 Equipment on Roof or Exterior Walls. Without limiting the generality of Section 7.1.1, above, mechanical equipment, such as air conditioners, shall not be placed on or attached to any roof, exterior wall, Common Area without the prior written approval (including, without limitation, as to screening and installation) of the ARC and/or Board.

7.1.5 ADUs. No detached ADU, attached ADU, or ADU entirely within an existing Residence may be constructed, installed, or maintained on a Lot without the prior written approval of the ARC and/or Board as provided in this Article 7. ADUs must meet and comply with all state and local law requirements, all requirements set forth in the Governing Documents, and any reasonable restrictions established by the ARC and/or Board.

7.1.6 Common Systems. No addition and/or modification that impacts common systems (including but not limited to the plumbing, electrical systems, gas lines and sprinkler systems) shall be commenced, erected or installed within the Development until the plans and specifications showing the

nature, kind, shape, color, height, size, materials, and location of the same have been submitted to and approved in writing by the ARC and/or Board as provided in this Article 7.

7.2 Establishment of Architectural Review Committee.

7.2.1 Members. The ARC, if any, shall be composed of at least three (3) Members appointed by the Board of Directors. The Board may also appoint one alternate member who may be designated by the ARC to act as a member of the ARC in the absence or incapacity of any ARC member. ARC members shall serve one-year terms subject to the Board's power to remove any ARC member and to appoint their successor. Neither the members of the ARC nor its designated representatives shall be entitled to any compensation for service performed pursuant hereto.

7.2.2 Board May Serve as Architectural Review Committee. If at any time there is a not a duly constituted Architectural Review Committee, the Board shall exercise the functions of the ARC in accordance with the terms of this Article 7.

7.2.3 Vacancies. In the event of a vacancy on the ARC, the Board shall have the full authority to appoint a new member.

7.2.4 Duties. It shall be the duty of the Architectural Review Committee, if any, to consider and act upon proposals or plans submitted to it pursuant to the terms of this Article 7, to perform other duties delegated to it by the Board, to carry out all other duties imposed upon it by this Declaration and act in accordance with *Civil Code* section 4765.

7.2.5 Meetings, Minutes, Reimbursement. The ARC, if any, shall meet as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the members of the ARC shall constitute an act by the ARC. The ARC shall keep and maintain a record of all actions/recommendations taken by or made by it at such meetings or otherwise. The ARC and its members shall be entitled only to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any ARC function.

7.3 Architectural Rules. Subject to the Board's approval and the requirements of *Civil Code* section 4350 *et seq.*, the ARC, if any, may propose, for adoption by the Board, Architectural Rules which may interpret and implement the provisions hereof by providing for any or all of the following:

(a) The standards and procedures for ARC and/or Board review, including the required content of application and procedures for obtaining preliminary approval of plans.

(b) Guidelines for architectural design, placement of any work of improvement or color schemes, exterior finishes and materials and similar features which are recommended or required for use in connection with particular improvement projects within the Development.

(c) The criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed improvement pursuant to the Governing Documents. All variances shall be reviewed on a case-by-case basis with no precedent being established if a variance is granted in a particular instance and must be approved by a majority of the affirmative votes of the ARC and/or Board.

(d) Lists of repair projects and minor improvement projects that can receive final review and approval by the Architectural Review Committee, if any, without review/approval by the Board, so long as the project is undertaken in accordance with plans and specifications that are consistent with the Architectural Rules or the project involves use of an identical color or external material to the existing color or material and the new materials/colors are submitted to and reviewed by the ARC, if any.

(e) Notwithstanding the foregoing, no Architectural Rules shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Rules and this Declaration, the provisions of the Declaration shall prevail.

7.4 Application. Any Owner proposing to perform any work of any kind whatsoever, which requires prior approval pursuant to this Article 7, shall apply for approval by notifying the ARC and/or Board, in writing, of the nature of the proposed work and furnishing such information and documentation as the ARC, if any, and Board may require.

7.5 Fees; Consultants. The ARC and/or Board may charge a reasonable fee or fees for its review of architectural or landscaping applications, drawings, plans, and specifications which may include the cost of retaining outside consultants including but not limited to architects, engineers, soils experts, or contractors. The costs of any such outside consultants may be levied against an Owner and their Unit as a Reimbursement Assessment. However, before a consultant is retained by the ARC and/or Board, the Owner will be informed in writing of the ARC and/or Board's intention to retain a consultant at the Owner's expense and the Owner will be given the opportunity to decide to pay the consultant's fee or decide not to pursue the improvement or modification. An Owner who withdraws their application shall do so without penalty, including fees.

7.6 Decisions on Architectural Applications. The Owner and, in the Board's discretion, other interested persons, may present information relevant to

the requested approval. The decisions of the ARC and/or Board shall be made in good faith and shall not be unreasonable, arbitrary or capricious. The ARC and/or Board may employ subjective criteria and judgments in their review of and determination regarding plans and proposals submitted to them. The decisions of the ARC and/or Board shall be made from the perspective of the interest of the Development as a whole, including the coherence, value, attractiveness and aesthetic compatibility of all architectural designs and features in the Development, after consideration of all factors the Board determines to be relevant and after reasonable investigation consistent with the scope and circumstances of the proposal.

7.7 Grant of Approval. The Architectural Review Committee shall grant the requested approval only if all the following conditions are met:

- (a) The Owner complied with the provisions of Section 7.4 above.
- (b) The plans and specifications conform to this Declaration and to the Architectural Rules in effect at the time such plans were submitted to the ARC and/or the Board.
- (c) The proposed improvements would be consistent with the standards and aesthetics of the Development and the purposes of this Declaration as to: quality of workmanship, design and materials; harmony of exterior design with the existing improvements; structures; and location with respect to topography and finished grade elevations.

7.8 Timing and Form of Approval. All approvals and rejections of requests for approval shall be in writing and shall be issued by the ARC and/or the Board within sixty (60) days from the date of submission of a complete application to the ARC and/or the Board. If the ARC and/or the Board fails to act on a request for approval within sixty (60) days from the date of submission of a complete application, the Owner shall be entitled to request internal dispute resolution, as described in Section 9.12.2, below, and *Civil Code* section 5900 *et seq.*; except that, in the case of an application for installation or use of a solar energy system subject to *Civil Code* section 714, any application that is not denied by the ARC and/or the Board within forty five (45) days from receipt of a complete application shall be deemed approved; and in the case of an application for installation or use of an electric vehicle charging station subject to *Civil Code* section 4745(e), any application that is not denied by the Board within sixty (60) days from receipt of a complete application shall be deemed approved. Owners are responsible for confirming receipt of an application by the ARC and/or the Board. Oral approvals will be of no force and effect. If an application is rejected, the decision shall include an explanation of the decision of the ARC and/or the Board and a notice describing the Owner's right to request reconsideration, if any.

7.9 Appeals; Reconsideration by the Board. If an application is denied by the ARC, the Owner-applicant is entitled to reconsideration of the decision by the Board at an open Board meeting. The Architectural Rules shall contain procedures to process appeals pursuant to this Article 7; however, denial decisions rendered by the Board may not be appealed. ARC decisions may also be modified or overturned by the Board on its own initiative.

7.10 Commencement. Within ninety (90) days of receipt of approval pursuant to Sections 7.7 and 7.8 above, the Owner shall satisfy all conditions thereof and diligently proceed with the commencement and completion of all work pursuant to said approval. If the Owner shall fail to comply with this Section, any approval previously given shall be deemed revoked unless the Board, upon written request of the Owner made prior to the expiration of said ninety (90) day period, extends the time for such commencement. No such extension shall be granted except upon a finding by the Board that there has been no change in the circumstances upon which the original approval was granted.

7.11 Completion. Unless shorter time is specified in the approval by the Association, the Owner shall complete the approved work within six (6) months after receipt of approval, except and for as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or his agents. If an Owner fails to comply with this Section, the Board shall proceed in accordance with the provisions of Section 7.12, below, as though the failure to complete the improvements was a non-compliance with approved plans.

7.12 Inspection of Completed Work; Non-Compliance. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any installation, construction, reconstruction, alteration, or refinishing of the exterior of any improvements, or upon the completion of any other work for which approved plans are required pursuant to this Article 7, the Owner shall give written notice thereof to the ARC and/or the Board.

(b) Within sixty (60) days thereafter, the ARC and/or Board, or its duly authorized representative, may inspect such improvement to determine whether it was installed, constructed, reconstructed, altered, or refinished to substantial compliance with the approved plans. If the ARC and/or Board finds that such installation, construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance within such sixty (60) day period, specifying the particulars of non-compliance, and shall require the Owner to remedy such non-compliance.

(c) If the Owner shall have failed to remedy such non-compliance upon the expiration of thirty (30) days from the date of such notification, the ARC and or Board or other duly authorized representative of the Board shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged non-compliance. The hearing date shall be not more than thirty (30) days nor less than fifteen (15) days after notice of the non-compliance is given to the Board by the ARC, if any, or the Board's duly authorized representative. Notice of the hearing date shall be given at least ten (10) days in advance thereof by the Board to the Owner, to the ARC, if any, and, in the discretion of the Board, to any other interested party.

(d) At the hearing, the Owner, the ARC, if any, and, in the Board's discretion, any other interested persons, may present information relevant to the question of the alleged non-compliance. After considering all such information, the Board shall determine whether there is non-compliance, and, if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board's ruling. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance and all expenses incurred in connection therewith shall be assessed against the Owner as a Reimbursement Assessment.

(e) If, for any reason, the ARC and/or Board fails to notify the Owner of any non-compliance within sixty (60) days after receipt of a notice of completion from the Owner, the improvement shall be deemed to be in accordance with the approved plans.

7.13 Non-Waiver. The approval by the ARC and/or the Board of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the ARC and/or the Board pursuant to this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval.

7.14 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Association by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Board shall cause to be recorded an estoppel certificate, certifying (with respect to any Lot of said Owner) that as of the date thereof, either: (i) all improvements made and other work completed by said Owner comply with this Declaration, or (ii) such improvements or work do not so comply, in which event the certificate shall also identify the non-complying improvements or work and set forth with particularity the basis of such non-compliance. Any Owner, or anyone deriving any interest in

a Lot through him or her, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association and all Owners and such persons deriving any interest through them.

7.15 Liability. Neither the ARC and/or the Board (or any member thereof) shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (i) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (iii) the development of any property within the Development; or (iv) the execution and filing of an estoppel certificate pursuant to Section 7.14, whether or not the facts therein are correct; *provided, however*, that the ARC and/or Board (or any member thereof) has acted in good faith on the basis of such information as may be possessed by it (or such ARC, if any, and/or Board member). Without in any way limiting the generality of the foregoing, the ARC, if any, and/or Board and/or ARC (or any member thereof) may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the ARC and/or the Board. Every purchaser, by acquiring title to a Lot, agrees not to bring any action or suit against the ARC, if any and/or the Board (or any member thereof) seeking to recover any such damages.

7.16 Compliance with Governmental Requirements. The application to the Association and the review and approval of any proposals, plans, or other submittals shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, the responsibility for which lies solely with the respective Owner, nor shall it constitute the assumption of any responsibility by or impose any liability on the ARC and/or the Board, (or any member thereof) as to the accuracy, efficacy, or sufficiency thereof. The obtaining of a permit or other approval of a government agency shall not be a substitute for nor constitute compliance with the requirements of this Article 7.

ARTICLE 8

ASSESSMENTS AND LIENS

8.1 Covenant of Owner. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association: (i) Annual Assessment; (ii) Special Assessments; and (iii) Reimbursement Assessments levied by the Association as hereinafter provided, together with all Additional Charges.

8.1.1 Association's Power to Collect. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions

and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens hereinafter provided for.

8.1.2 Each Assessment Is a Separate Obligation. Each Assessment levied by the Association pursuant to this Article 8, together with all Additional Charges, shall be a separate, distinct, and personal debt and obligation of the Owner against whom it is assessed, and shall bind their heirs, devisees, personal representatives, successors, and assigns.

8.1.3 Obligation Runs with the Land. Such obligation to pay Assessments and Additional Charges and the right and power of the Association to initiate all actions and procedures for collection shall run with the land, so that each successive Owner or Owners of record of any Lot within the Development shall, in turn, become liable to pay all such Assessments and Additional Charges assessed during the time they are record Owners of such Lot.

8.1.4 Owner's Liability after Transfer. After an Owner transfers fee title to any Lot they own they shall not be liable for any Assessments levied thereafter with respect to such Lot. Such Owner shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer, together with Additional Charges accruing until time of collection. The seller of any Lot shall continue to be liable for all Assessments and Additional Charges until a conveyance by deed of such Lot is recorded in the Office of the County Recorder of San Mateo County.

8.2 Creation of Lien. Each Assessment levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a charge upon the land and upon levy shall be secured by a continuing lien upon the property against which such Assessment is levied. The Association shall have a separate lien and a separate lien is hereby created upon each Lot to secure the payment of any such Assessments and Additional Charges as may be levied pursuant to this Declaration.

8.2.1 Continuing Lien. The lien provided for herein shall continue to secure all Assessments and Additional Charges levied upon any Lot notwithstanding the transfer of record title to such Lot, and any such transfer shall be subject to the Association's lien, provided that, prior to such transfer, a Notice of Delinquent Assessment has been recorded as provided in the Declaration and by law.

8.3 Purpose of Assessments. The Assessments levied by the Board shall be used exclusively to pay for the costs of management and operation of the Development, to conduct the business and affairs of the Association, to promote the recreation, health, safety, welfare, benefit, and interests of the Owners and Residents in the Development, and for the improvement and maintenance of the

Common Area and, to the extent provided for in the Governing Documents or by law, of the Lots situated within the Development.

8.4 Authority of the Board. The Board shall have the power and the duty to levy Annual, Special and Reimbursement Assessments sufficient to meet the Association's obligations pursuant to the Governing Documents and applicable law.

8.5 Association Funds. Unless otherwise determined by the Board, the Association shall maintain at least two (2) separate accounts in one or more banks or other depositories selected by the Board, which accounts shall be clearly designated Cordilleras Heights Homeowners' Association Operating Account and Cordilleras Heights Homeowners' Association Reserve Account. The Assessments collected by the Association shall be properly deposited into such accounts. The Assessments collected by the Association shall be held in trust by the Association for and on behalf of each Owner and shall be used for the purposes set forth in Section 8.3. The Board shall allocate a portion of said funds as collected for the annual maintenance and operation of the Development and another portion of said funds as collected as reserves for contingencies, replacement, and deferred maintenance of the improvements within the Development for which the Association is responsible, as specified in the annual budget. Upon sale or transfer of any Lot by any Owner, the Owner's interest in the funds held in trust by the Association shall terminate and shall be deemed automatically transferred to the successor-transferee of such Owner.

8.6 Annual Assessment.

8.6.1 Calculation of Estimated Requirement. Not later than thirty (30) days nor more than ninety (90) days prior to the beginning of each fiscal year, the Board shall complete and distribute to all Owners an estimate of the net funds required by the Association for such fiscal year, including a reasonable amount allocated to contingencies and to a reserve fund for restoration, repair, and/or replacement of those components for which the Association is responsible and which must be repaired or replaced on a periodic basis; to manage, administer, operate, and maintain the Development; to conduct the affairs of the Association; and to perform all of the Association's duties in accordance with this Declaration.

8.6.2 Allocation of Annual Assessment. The Board shall allocate and assess the Annual Assessment equally among the Lots by dividing the total amount of the Annual Assessment by the number of Lots within the Development; provided, however, the costs of maintaining pavement on the private road adjacent to Upland Road shall be assessed only to those Lots fronting the private road. Unless the Board shall designate otherwise, the Annual Assessment shall be levied on an annual basis and shall be paid in twelve (12) equal monthly

installments during the fiscal year, and each installment shall be due and payable on the first day of each month.

8.6.3 Surplus Funds. If, as of the end of any fiscal year, there is an excess of membership income over membership expenses, as defined in *Internal Revenue Code* section 277 for the year ended, such excess shall be applied against the subsequent tax year's Assessments as provided in Internal Revenue Service Revenue Ruling 70-604, unless some other lawful disposition of such excess income is determined by the vote of the Members.

8.6.4 Increases in Annual Assessment. Pursuant to *Civil Code* section 5605(b), except as otherwise provided by law, the Board shall not increase the Annual Assessment for any fiscal year above the amount of the Annual Assessment for the preceding fiscal year by more than twenty percent (20%) (or such other limitation on the increase as may be imposed by law), except upon the affirmative vote of a majority of Members voting on any such increase in the Annual Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%) of the Members (i.e., Members representing at least twenty-three (23) Lots), notwithstanding any lower quorum requirement set forth in the Bylaws.

8.7 Special Assessments.

8.7.1 Purpose of Special Assessments. If at any time during any fiscal year the Annual Assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof or the unexpected repair, replacement, or reconstruction of improvements located in the Development, or if funds are otherwise required for any authorized activity of the Association, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost.

8.7.2 Allocation of Special Assessments. Special Assessments shall be allocated and assessed among the Lots in the same manner as the Annual Assessment (i.e., equally among the Lots by dividing the total amount of the Special Assessment by the number of Lots within the Development). The Board, in its sole discretion, may allow Owners' portions of a Special Assessment to be paid in installments.

8.7.3 Approval of Special Assessments. Except in the case of an emergency situation as defined in *Civil Code* section 5610, in any fiscal year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, except upon the affirmative vote of a majority of the Members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%) of

the Members (i.e., Members representing at least twenty-three (23) Lots), notwithstanding any lower quorum requirement set forth in the Bylaws.

8.8 Notice of Assessment Increases. Upon the imposition of a Special Assessment or an increase in the Annual Assessment, notice shall be provided to each Owner, as required by law not less than thirty (30) days and not more than sixty (60) days prior to the due date of the Assessment.

8.9 Reimbursement Assessments. The Association shall levy a Reimbursement Assessment against any Owner and their Lot if a failure by such Owner, or any person or animal, for which the Owner is responsible to comply with any provision of the Governing Documents has necessitated or resulted in an expenditure of funds by the Association, specifically including attorneys' fees. A Reimbursement Assessment shall include any costs, including attorneys' fees incurred by the Association and costs of collecting from an Owner any amount which the Owner is obligated to pay to the Association. Imposition of a Reimbursement Assessment shall be effective only after a duly noticed hearing before the Board. Reimbursement Assessments shall be due and payable to the Association when levied and subject to the same enforcement procedures as Annual and Special Assessments, including lien and foreclosure.

8.10 Failure to Fix Assessments. The failure or omission by the Board to fix or levy any Annual Assessment provided for by the terms of this Declaration before the expiration of any fiscal year, shall not be deemed either a waiver or a modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay Assessments or any installment thereof for that or any subsequent year, but the amount of the Annual Assessment fixed for the preceding fiscal year shall be the amount of the Annual Assessment for the ensuing fiscal year until a new Annual Assessment is levied.

8.11 No Offsets. All Assessments levied by the Board shall be payable in the full amount specified, including any Additional Charges imposed as provided by the terms of this Declaration, and no offsets against any such amounts shall be permitted for any reason whatsoever, including without limitation a claim that the Association has failed to properly exercise its duties of maintenance or enforcement.

8.12 Delinquent Assessments. Any installment or other portion of an Assessment not paid within fifteen (15) days after its due date shall be delinquent and shall be subject to interest and late charges not to exceed the maximum rate permitted by law, as well as all other Additional Charges. The Board, on behalf of the Association, may enforce the payment of any delinquent Assessment plus Additional Charges by bringing an action at law against any Owner personally obligated to pay the same, or by foreclosing the lien against the Owner's Lot by judicial or non-judicial foreclosure, except as prohibited by law. Prior to recording

a Notice of Delinquent Assessment, the Association shall provide notice to the Owner in accordance with *Civil Code* section 5660. Any demand or claim of lien or lien on account of prior delinquencies shall be deemed to include subsequent delinquencies and amounts due on account thereof. No procedures shall be initiated to foreclose the lien securing any Assessment levied pursuant to this Article 8 except as in accordance with *Civil Code* sections 5705, 5710, and 5720. Except as prohibited by law, upon the recording of the Notice of Delinquent Assessment referred to above, the Association may, at its option, declare the entire balance of all sums then due or to become due from the Owner, immediately due and payable, which total sum may then be included in any suit, action, or other procedure initiated to collect said sums, including all Additional Charges. Notwithstanding any other provision of this Declaration, the Association must comply with the requirements of the *Civil Code* when collecting delinquent Assessments.

8.13 Power of Sale. Each Owner does hereby appoint the Association as trustee to enforce and to foreclose any lien which is established pursuant to the terms of this Declaration, by private power of sale as provided by law, and does further grant to the Board of Directors, on behalf of the Association, the authority and power to sell the Lot of such Owner in the event of any default in payment of any Assessments or Additional Charges levied against such Lot, for lawful money of the United States, to the highest bidder, to satisfy said lien. The Association, as trustee for the remaining Owners, or any other Owner, may purchase the Lot at said sale. The decision to record a lien and initiate foreclosure may only be made by the Board and may not be delegated.

8.14 Remedies Cumulative. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive; that is, the Association may use one or more or all of the available remedies to collect delinquent Assessments.

8.15 Certificate of Satisfaction and Release of Lien. Upon payment in full of a delinquent Assessment, including any Additional Charges, or the satisfaction thereof, the Board shall cause to be recorded, in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction thereof and the release of the lien.

8.16 Priority. Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for pursuant to this Article 8 shall have priority as of the date of recording of the original Declaration applicable to the Development over all other liens and encumbrances applicable to the Lots; *provided, however*, that such Assessment lien shall be subordinate to the lien of any first Mortgage or first deed of trust recorded against the Lot; and provided, further, that such subordination shall apply only to the Assessments which have become due and payable prior to the sale of such property pursuant to a decree

of foreclosure of any such Mortgage or deed of trust, or pursuant to a power of sale contained in any such Mortgage. Such foreclosure sale shall not relieve such property from liability for any Assessments and Additional Charges thereafter becoming due, nor from the lien of any subsequent Assessment.

8.17 Waiver of Exemptions. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Article 8, the benefit of any homestead or exemption laws of the State of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed pursuant to the terms of this Article 8.

8.18 Property Exempt from Assessments. The following property subject to this Declaration shall be exempt from the Assessments, Additional Charges, and liens created herein:

(a) All property dedicated to and accepted by San Mateo County or other local public authority and devoted to public use;

(b) Any Lot which is owned by the Association as a result of the Association having acquired such Lot through foreclosure; provided, however, that such exemption shall be applicable only during the period in which the Association is record Owner of such Lot; and

(c) All Common Area.

ARTICLE 9

ENFORCEMENT

9.1 Violations as Nuisance. Every act or omission constituting or resulting in a violation of any of the provisions of the Governing Documents shall be deemed to constitute a nuisance and, in addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association; provided, however, that the Board shall not be obligated to take action to abate or enjoin a particular violation if, in the exercise of its discretion, the Board determines that acting to abate or enjoin such violation is not likely to foster or be in the best interests of the Association and its Members as a whole. Notwithstanding the preceding sentence and without limiting its generality, nothing in the Governing Documents shall be deemed to impose upon the Association, the Board, or the officers, employees, or agents of the Association a duty to intervene in any physical dispute or altercation or any criminal or alleged criminal activity other than to notify law enforcement officials; the Association, the Board, officers, employees or agents of the Association do not have police powers.

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

9.3 Owners' Responsibility for Conduct of Others and Damages. Each Owner shall be responsible for informing members of their household and their tenants and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, any Governing Document violation of any of them, and for any damage to the Development or the Association resulting from the negligent or intentional conduct of any of them or any household pets. If a Lot is owned jointly by two (2) or more persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall be joint and several.

9.4 No Avoidance. No Owner may avoid the burdens or obligations imposed by the Governing Documents through non-use of any Common Area facilities or by abandonment of their Lot.

9.5 Rights and Remedies of the Association.

9.5.1 Rights and Remedies are Cumulative. The Association, its Directors, officers, or agents, and any Owner shall have the right to enforce any and all provisions of the Governing Documents by any proceeding at law or in equity, or through the use of such other remedies as are available and deemed appropriate by the Board. Each remedy provided is cumulative and not exclusive.

9.5.2 Imposition of Sanctions. In the event of a breach or infraction of any provision of the Governing Documents by an Owner, members of an Owner's household, or their tenants or guests, the Board shall have the power to impose a sanction against the Owner who is responsible as provided in Section 9.3 for such breach or infraction. A sanction may include but shall not be limited to a monetary penalty and/or the suspension of an Owner's rights as a Member of the Association, including an Owner's right to use the recreational or community facilities on the Common Area. Imposition of a sanction shall be effective only after notice and an opportunity for hearing. Any monetary penalty imposed pursuant to this Section shall not exceed the amount for each violation, as set forth in the schedule of monetary penalties adopted pursuant to *Civil Code* section 5850(a). Each Owner shall be obligated to pay costs incurred by the Association relating to violation of any provisions of the Governing Documents by such members of Owner's household, tenants, guests, pets, or other invitees. Sanctions may be enforced by the Association in any manner permitted by law.

9.5.3 Continuing Violations. In the case of a continuing violation, such as an uncorrected architectural violation, where an Owner, member of an

Owner's household, or their tenants or guests fails to cease or remedy a violation after notice from the Board to do so, the Board may deem such a continuing violation and may impose separate and successive sanctions for each such violation without holding further hearings for each sanction.

9.6 Inadequacy of Legal Remedy. Except for the non-payment of any Assessment, a remedy at law to recover damages for the breach or violation of the Governing Documents is inadequate and the failure of any Owner or a member of the household of any Owner or an Owner's tenants, guests, or household pets or any other occupant or user of any of the property within the Development to comply with any provision of the Governing Documents may be enjoined in any judicial proceedings initiated by the Association or by any Owner, or by their respective successors in interest.

9.7 Limitation on Disciplinary Rights. The Association shall not have the power to cause a forfeiture or abridgment of a Member's right to the full use and occupancy of their Lot as the result of the failure by such Owner, members of such Owner's household, or their tenants, guests, invitees or household pets to comply with any provision of the Governing Documents, except where such forfeiture or abridgment is the result of the judgment of a court of competent jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or sale pursuant to private power of sale for failure of such Owner to pay Assessments. The provisions of this Section shall not affect the Association's right to impose fines or monetary penalties or to suspend an Owner's membership rights, as provided in the Governing Documents.

9.8 Disciplinary Rules. The Board may adopt Rules that further elaborate upon and refine procedures for conducting disciplinary proceedings and otherwise imposing sanctions upon Members of the Association for violation of provisions of the Governing Documents. Such Rules, when approved and adopted by the Board subject to *Civil Code* sections 4340 *et seq.*, shall be deemed to be a part of the Association Rules provided for, in and constituting a part of the Governing Documents.

9.9 Investigation of Complaints. Upon receipt of a written complaint from an Owner or Resident, the Board shall conduct an investigation of the allegations in the complaint and shall make relevant findings upon which the Board shall base a decision to pursue or not pursue the matter.

9.10 Emergency Situations. The following shall constitute emergency situations: (i) an immediate and unreasonable infringement of or threat to the safety or peaceful enjoyment of Residents of the Development; (ii) a traffic or fire hazard; (iii) a threat of material damage to or destruction of the Development or any portion thereof; and (iv) a violation of any provision of the Governing Documents that is of such a nature that there is no material question regarding the

identity of the violator or whether the violation has occurred (such as parking violations). Notwithstanding any other provision of the Governing Documents, with respect to circumstances involving conduct which constitutes an emergency, the Board or its duly authorized agents may undertake immediate corrective or disciplinary action and, upon request of the Owner as to whom such corrective or disciplinary action has been taken, or on its own initiative, conduct a hearing as soon thereafter as reasonably possible. If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of the disciplinary action which is transmitted to the Owner. If the Board has not scheduled a hearing and the Owner desires a hearing, the Owner's written request for a hearing shall be delivered to the Association no later than five (5) days following the date when the notice of the Board's disciplinary action is transmitted to the Owner. The hearing shall be held not later than fifteen (15) days following the date of the Board's notice of the disciplinary action or fifteen (15) days following the receipt of the Owner's request for a hearing, whichever is later. If a hearing is scheduled or requested, any sanctions imposed or other disciplinary action taken by the Board shall be held in abeyance and shall become effective only if affirmed at the hearing.

9.11 Notices. Any notices required or given pursuant to this Article 9 shall, at a minimum, set forth the date, time, and location of any hearing, a brief description of the act or omission constituting the alleged violation of the Governing Documents, a reference to the specific Governing Document provision or provisions alleged to have been violated, and the sanction, disciplinary action, or other enforcement action being contemplated by the Board. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice to the affected Member; *provided, however*, that if notice is given by mail, it shall be sent by first-class mail, postage prepaid, sent to the most recent address for the affected Member as shown on the records of the Association.

9.12 Dispute Resolution.

9.12.1 Alternative Dispute Resolution. Any dispute other than those listed in *Civil Code* section 5930(b) or those related to the power and duty of the Board of Directors to levy and collect Assessments through lien and foreclosure proceedings shall be submitted to alternative dispute resolution procedures ("ADR") as described in *Civil Code* section 5925 *et seq.* In the case of any claim, dispute, or controversy which is not otherwise subject to *Civil Code* section 5925 *et seq.*, involving a sum of money not in excess of the jurisdiction of the Small Claims Court, any party to the dispute shall have the right to file a claim in Small Claims Court and have the matter determined therein in lieu of ADR.

9.12.2 Internal Dispute Resolution. In addition to the ADR provisions of *Civil Code* section 5925 *et seq.*, the Association shall provide for Internal Dispute Resolution in any dispute regarding the rights, duties or liabilities

pursuant to *Civil Code* section 4000 *et seq.*, the Nonprofit Mutual Benefit Corporation Law, or the Governing Documents. The procedure may be invoked by any party pursuant to *Civil Code* section 5900 *et seq.*

9.13 Non-Waiver. Failure to enforce any provision of the Governing Documents at any time shall not be deemed a waiver of the right to do so thereafter with respect to the same or any other violation of any provision of the Governing Documents.

9.14 Costs and Attorneys' Fees. In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Owner or Resident, member of their household, tenants, guests, invitees or household pets have violated any provision of the Governing Documents, and whether or not legal or judicial proceedings are initiated, the Association shall be entitled to recover the full amount of all costs including attorneys' fees and experts' fees incurred by the Association in responding to such a violation and/or in enforcing any Governing Document provision, to the extent permitted by law. In the event of a court awarding attorneys' fees, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorneys' fees paid or incurred in good faith. The remedies of the Association to recover the amount of such costs and attorneys' fees shall include, but shall not necessarily be limited to, the imposition of a Reimbursement Assessment as provided in Article 8.9 of this Declaration.

ARTICLE 10

INSURANCE

10.1 Insurance. The Board shall obtain and maintain the insurance policies as provided below.

10.1.1 General Provisions and Limitations. All insurance policies obtained and maintained by the Board on behalf of the Association shall be subject to and, where applicable, contain the following provisions and limitations:

(a) Named Insured. Unless otherwise provided in this Section, the named insured shall be the Association or its authorized representative, as a trustee for the Owners. However, all policies shall be for the benefit of Owners and their Mortgagees, as their interests may appear.

(b) Authority to Negotiate. Exclusive authority to adjust losses pursuant to policies obtained by the Association shall be vested in the Board.

(c) Subrogation. All policies shall include a waiver of subrogation by the insurer as to any claims against the Board, the manager, and/or the Owners.

(d) Primary Coverage. The policy or policies obtained by the Association will be primary to all other insurance.

(e) Cancellation/Modification. No policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association, except ten (10) days' notice shall be required for cancellation due to nonpayment of premium.

(f) Endorsements. All property insurance policies shall include an agreed amount endorsement, if the policy contains a coinsurance clause; a replacement cost endorsement; and an inflation guard endorsement.

10.1.2 Types of Coverage. The following policies shall be obtained:

(a) Property Insurance. A blanket (or master) property insurance with the "causes of loss – special form" endorsement covering all insurable Common Area improvements, including fixtures and building service equipment, against loss or damage by fire or other casualty, in an amount equal to the full replacement cost (excluding the cost of excavations, foundations and footings) without respect to depreciation of all insurable Common Area improvements. A replacement cost endorsement shall be part of the policy.

(b) Liability Insurance. A commercial general liability policy with limits set by the Board but in no event less than those set forth in *Civil Code* section 5805. The policy shall include the Association, Board and Owners as insureds. If available, each policy shall contain a provision in which the rights of the named insured shall not be prejudiced with respect to any action by one named insured against another named insured.

(c) Workers' Compensation. Workers' compensation insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Development.

(d) Fidelity Bond. A fidelity bond or employee dishonesty policy naming the Board, the Owners, the Association and such other persons as the Board may designate as obligees, in an amount as required by law. This bond or policy shall extend coverage for acts of employees, agents, volunteers, the management company, and management company employees.

(e) Directors and Officers. A policy covering individual liability of Directors, officers and the Association for the negligent acts or omissions of the Directors and officers in an amount equal to at least the minimum amount specified in *Civil Code* section 5800. The policy shall include coverage for the acts of the agents of the Board and/or Association, including the management company and its employees, and Association committee members and volunteers, if such coverage is available.

(f) Other Insurance. The Association may obtain other types of insurance as the Board determines to be necessary to protect the interests of the Owners.

10.1.3 Deductible. Owners shall be responsible to pay the deductible on any Association-maintained insurance applicable to any loss resulting from the conduct, omission or negligence of the Owner, Resident (including tenant), or their invitee or guest. Owners shall also be responsible to pay the deductible on any Association-maintained insurance applicable to any loss which emanates from an Owner's Lot which damages Common Area, the Owner's Lot, improvements and/or personal property, and/or the Lot, improvements and/or personal property of another Owner. The Association may collect the amount of any such deductible as a Reimbursement Assessment. The Association shall be responsible for the deductible on Association-maintained insurance in all other instances.

10.2 Insurance by Owner. Each Owner, at that Owner's sole cost and expense, shall obtain and maintain a "special causes of loss" policy in an amount equal to or greater than the total replacement value of the insurable improvements on the Lot, the Residence interior, and personal property contained therein (commonly known as a "HO-3" policy). The policy shall also provide liability coverage in such amounts and for such acts or omissions as are normally and customarily included in homeowners property insurance coverage of the types required herein. However, no Owner shall be entitled to maintain insurance coverage in a manner so as to decrease the amount which the Association, on behalf of all Owners and their Mortgagees, may realize pursuant to any insurance policy which the Association may have in effect at any time. The Board may require any Owner, and may periodically require all Owners, to provide a certificate from the Owner's insurer certifying that the required insurance pursuant to this Section 10.2 has been procured and is in full force and effect.

10.3 Insurance by Tenant. Each Owner who rents or leases out their Lot shall (i) recommend the tenant to obtain and maintain a "renter's policy" (also known as a "HO-4" policy) and (ii) provide to the Board a certificate from the tenant's insurer certifying that the recommended insurance pursuant to this Section 10.3 has been procured and is in full force and effect.

10.4 Claims Submission. No Owner may make a claim to or put either the agent or any insurance company providing insurance to the Association on notice of any damages or claim relating to Association-maintained insurance. Claims may only be made by the Association via the Board of Directors or the managing agent if the Board delegates such authority to the managing agent.

10.5 Notice of Damage to Lot or Residence. Each Owner must notify the Association, or managing agent of any damage sustained to their Lot or Residence to which Association-maintained insurance may apply within 24 hours of the time when the Owner knew or should have known of the damage. Any reduction in insurance coverage available or premium increase resulting from the failure to promptly provide notice of damage as required herein shall be the responsibility of the subject Owner and not the Association and may be subject to a Reimbursement Assessment.

10.6 Annual Review. The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three (3) years, the review shall include a replacement cost appraisal of all insurable Common Area improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners of similar property in the area in which the Development is situated.

10.7 Annual Notice to Members. The Association shall provide a summary of all existing Association policies of property, general liability, earthquake, flood and fidelity insurance, as required by *Civil Code* section 5300(b)(9).

ARTICLE 11

DAMAGE OR DESTRUCTION OF BUILDINGS; CONDEMNATION

11.1 Replacement or Repair of Association Property. In the event of damage to or destruction of Common Area or other property of the Association or any part thereof, the Association shall repair or replace the same from the insurance proceeds payable to it by reason of such damage or destruction. If any such damage or destruction was insured against and the insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may levy a Special Assessment against the Members of this Association as provided in this Declaration to cover the additional cost of the repair or replacement not covered by the insurance proceeds. The Members may elect not to cause such replacement or repair by the vote or written consent of two-thirds (2/3) of the Total Voting Power of the Association. If there is an election not to rebuild or repair, the applicable insurance proceeds shall be

distributed by the Association to the Members pro rata or otherwise made use of as determined by the vote of the Members.

11.2 Rebuilding or Repair of Improvements on Lots. If any Lot and/or Residence is damaged or destroyed by fire or other casualty, the Owner(s) of any such Lot shall repair or rebuild the structures upon such Lot and restore such Lot to its condition prior to the damage or destruction, or to such other condition as shall have been approved in advance by the Architectural Review Committee and/or Board. Repair or rebuilding shall be commenced within a reasonable time, which shall in no event exceed one (1) year after the occurrence of the damage or destruction. The Association shall make available to the Owner(s) of the damaged Lot the proceeds from insurance applicable to the loss, if any, to repair or rebuild the Lot. However, the amount of such proceeds shall not limit the obligation of the Owner(s) to repair or rebuild.

11.3 Condemnation.

11.3.1 Condemnation of Common Area. If at any time all or any portion of any Common Area, or any interest therein, shall be taken for any public or quasi-public use, pursuant to any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the entire compensation or award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Development, shall be paid to the Association and shall be used in the manner determined by the Board, provided that such use shall not be inconsistent with the purposes of the Association. The Association shall represent the interests of all Owners in any proceedings relating to such condemnation to the extent such Owners have any interest in the Common Area.

11.3.2 Condemnation of Lots. If an entire Residence or Lot, or so much thereof as to render the remainder unfit for use as a residence, is condemned or taken for a public or quasi-public use, pursuant to any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the Owner's membership in the Association shall terminate as of the last day of the month in which the condemner obtains the right to possession, or upon Owner's vacating the premises, whichever occurs last. If only a portion of such Residence or Lot is taken and the remainder is fit for use as a residence, the Owner shall continue to be a Member of the Association. In any condemnation action involving an Owner's Residence or Lot, the Association shall have the right to seek compensation for any damages incurred by the Association.

ARTICLE 12

AMENDMENT

12.1 Amendment by the Members. This Declaration may be amended by the affirmative vote of a Majority of a Quorum of the Members. For purposes of the preceding sentence, a quorum shall mean a one-third (1/3) of the Total Voting Power (which may be reduced to twenty-five percent (25%) of the Total Voting Power), as set forth in Section 4.8.4 of the Bylaws. Any amendment of the Declaration shall be signed and acknowledged by the duly authorized officer(s) of the Association and recorded in the Office of the San Mateo County Recorder.

12.2 Amendment by the Board of Directors. The Board of Directors may, by a majority vote of all Directors then in office, adopt amendments to this Declaration, when an amendment is needed to conform a particular provision or provisions of this Declaration to changes in applicable California statutory law that are nondiscretionary in nature. Before entertaining a motion to approve any such amendment(s), the Board shall receive a written opinion from an attorney licensed to practice law in the State of California confirming that a change or changes in California statutory law necessitates a corresponding amendment to this Declaration to conform to the statutory requirements, which the Association is bound by law to follow.

ARTICLE 13

GENERAL PROVISIONS

13.1 Headings. The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning of any of the provisions of this Declaration or otherwise.

13.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision hereof shall not invalidate any other provisions hereof.

13.3 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of fostering a plan of community ownership and occupancy and of management of the Development for the benefit of the community.

13.4 Conflict Between Governing Documents. In the case of any conflict between the Articles of Incorporation, Bylaws and or Rules and this Declaration, this Declaration shall control.

13.5 Amendment to Referenced Statutes. References in this Declaration to particular statutes, including sections of the *Civil Code*, shall be deemed to include any successor statute and any amendments to existing or successor statutes.

13.6 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.

13.7 Easements Reserved and Granted. Any and all easements referred to herein shall be deemed reserved or granted, or both reserved and granted, as appropriate, by reference to this Declaration in a deed to any Lot.

13.8 Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges, and equitable servitudes contained in this Declaration shall run with and shall benefit and burden all of the real property subject to this Declaration, including without limitation the Lots and Common Area, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors and officers, and their respective agents and successors in interest, for a term of thirty (30) years from the date of recordation of this Declaration. Thereafter, the term shall be automatically extended for successive periods of ten (10) years each, unless within the six (6) months prior to the expiration of the initial thirty (30) year term or any ten (10) year extension period, a written instrument approved by Owners entitled to vote and holding at least a majority of the Total Voting Power of the Association, terminating the effectiveness of this Declaration shall be recorded in the Office of the County Recorder of San Mateo County, California.

IN WITNESS WHEREOF, we, the Members of Cordilleras Heights Homeowners' Association, constituting at least fifty percent (50%) of the voting power of said Association, hereby affirm, approve, and adopt the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions of Cordilleras Heights Homeowners' Association, in accordance with Section 6.06 of the 1978 Declaration, by means of the signatures of the President and Secretary of the Association, duly authorized by the affirmative vote of at least fifty percent (50%) of the voting power of the Association; therefore the Amended and Restated Declaration of Covenants, Conditions and Restrictions shall be recorded with the County Recorder of San Mateo County, California.

DATED: _____

CORDILLERAS HEIGHTS
HOMEOWNERS' ASSOCIATION

President

Secretary

For Member Vote

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____,
Notary Public, personally appeared, _____,
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 pursuant to the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____,
Notary Public, personally appeared, _____,
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 pursuant to the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)