

OCEAN POINTE COMMUNITY ASSOCIATION
a California nonprofit mutual-benefit corporation

THIS RESTATED Declaration of Covenants, Conditions and Restrictions ("CC&Rs") is made by all Persons who own Units in that certain real property planned residential development known as Ocean Pointe located in San Diego County, California. These CC&Rs shall apply to and bind all properties previously covered by covenants, conditions and restrictions. Without reducing the number of properties covered by these CC&Rs, the CC&Rs shall apply to the following properties:

Units 101 to 116, inclusive, 129 to 132, inclusive, 201 to 203, inclusive, 205 to 216, inclusive, 229 to 232, inclusive, 301 to 303, inclusive, and 306 to 314, inclusive, and 329 to 331, inclusive, Common Area and Association Property, as shown on the Amended and Restated Condominium Plan Ocean Pointe Phase 1, Recorded on December 18, 2000, as Instrument No. 2000-0686922, of Official Records of San Diego County, California, consisting of a portion of Lot 1 of Carlsbad Tract No. 83-4, as shown on Map No. 11484, filed April 10, 1986 as File No. 86-138666, of Official Records of San Diego County.

Units 117 to 128, inclusive, 217 to 227, inclusive, 317 to 319, inclusive, and 321 to 326, inclusive, Common Area and Association Property, as shown on the Condominium Plan Ocean Pointe Phase 2, Recorded on May 25, 2001, as Instrument No. 2001-0340098, of Official Records of San Diego County, California, consisting of a portion of Lot 1 of Carlsbad Tract No. 83-4, as shown on Map No. 11484, filed April 10, 1986 as File No. 86-138666, of Official Records of San Diego County.

Units 133 to 148, inclusive, 233 to 248, inclusive, 335 to 338, inclusive, and 341 to 348, inclusive, Common Area and Association Property, as shown on the Condominium Plan Ocean Pointe Phase 3, Recorded on September 27, 2001, as Instrument No. 2001-0696842, of Official Records of San Diego County, California, consisting of a portion of Lot 1 and all of Lot 2 of Carlsbad Tract No. 83-4, as shown on Map No. 11484, filed April 10, 1986 as File No. 86-138666, of Official Records of San Diego County.

By this instrument, the Members of the Association hereby revoke all previous declarations of covenants, conditions and restrictions recorded on August 4, 2000 as Recorder's Document No. 2000-0413018, as well as all amendments thereto and substitute in their place these CC&Rs, which shall:

1. *Benefit Members.* Be for the benefit of Members of the Association;
2. *Benefit the Development.* Be for the benefit, enhancement and protection of the desirability, value and attractiveness of the Development and each Unit therein;
3. *Bind Successors in Interest.* Inure to the benefit of and be binding upon each successor in interest of the Association, each Member, Tenant, Resident, and occupant of any portion of the Development, as well as their respective heirs, personal representatives, grantees, Tenants, licensees, successors and assigns; and
4. *Run with the Land.* Run with the land and be binding upon all parties having or acquiring any right, title or interest in the Development or any portion of the Development, whether as sole owners, joint owners, Tenants, Residents, occupants or otherwise.

NOW THEREFORE, all Units in the Development, as well as any conveyance, transfer, sale, assignment, rental, lease or sublease of a Unit, shall be deemed to incorporate the provisions of these CC&Rs. Each successor in interest is subject to all of the covenants, conditions and restrictions contained in these CC&Rs.

ARTICLE 1: DEFINITIONS

- 1.1 "Annual Meeting" means the annual meeting of the Members of the Association.
- 1.2 "Architectural Standards" means those rules and guidelines which govern the making of physical changes, alterations, repairs or improvements to Units, Common Areas and Exclusive Use Common Areas.
- 1.3 "Articles" means the Association's Articles of Incorporation.
- 1.4 "Assessment" means any Regular Assessment, Special Assessment, Reimbursement Special Assessment, or any other assessment levied, imposed, or assessed against a Member's Unit in accordance with the provisions of the Governing Documents or applicable law.

1.5 “Association” means the Ocean Pointe Community Association, a California nonprofit, mutual-benefit corporation. The Association shall include, when the context requires, its Officers, Directors, employees and agents.

1.6 “Balcony” shall refer to a balcony which is attached to a Unit and accessible through the Unit of which it is a part. Balconies are referred to as “Balcony” and designated as “B” on the Condominium Plan.

1.7 “Board” and “Board of Directors” means the Board of Directors of the Association.

1.8 “Budget” means a pro forma, projected or estimated operating budget of the Association’s income and expenses for a twelve (12) month period.

1.9 “Building” means any building or structure which is part of the Improvements of the Development.

1.10 “Bylaws” means the duly adopted Bylaws of the Association, including any amendments.

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

1.12 “City” means the City of Carlsbad, California, and its various departments, divisions, employees and representatives.

1.13 “Committee” means any committee appointed by the Board to assist in the management and administration of the affairs of the Association.

1.14 “Common Area” means the entire Development, except the Separate Interests owned by Members.

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

1.16 “Condominium” means a condominium, as defined in the Davis-Stirling Act.

1.17 “Condominium Plan” means the diagrammatic description of the Development that identifies the boundaries of Units, some or all of the Exclusive Use Common Areas and the Common Area. The Condominium Plans for this Development consist of the Amended and

Restated Condominium Plan Ocean Pointe Phase 1 recorded on December 18, 2000 as Document No. 2000-0686922 in the Official Records of San Diego County; the Condominium Plan Ocean Pointe Phase 2 recorded on May 25, 2001 as Document No. 2001-0340098 in the Official Records of San Diego County; and the Condominium Plan Ocean Pointe Phase 3 recorded on September 27, 2001 as Document No. 2001-0696842 in the Official Records of San Diego County.

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

1.19 “Development” means that certain residential development known as “Ocean Pointe” and located at 4021, 4025, and 4029 Canario Street and 805, 809, 813, 817 and 823 Kalpati Circle in Carlsbad, California.

1.20 “Director” means any member of the Association’s Board of Directors.

1.21 “Exclusive Use Common Areas” means those portions of the Common Area which serve a single Unit, including but not limited to Balconies, Patios, Storage Areas, Water Heater Closet, assigned parking spaces, heating, ventilation and/or air conditioning, and utility lines, whether located inside or outside the boundaries of the Unit.

1.22 “Expense Agreements” mean (a) the Memorandum of Shared Expense Agreement (East Gate-Windsong Cove/Agua Hedionda/Ocean Pointe East) between Windsong-Carlsbad, L.P., the Association, Windsong Cove Condominium Association and Agua Hedionda Homeowners Association, recorded on August 17, 2000 as Document No. 2000-0437957 in the Official Records of San Diego County and (b) the Memorandum of Shared Expense Agreement (West Gate-Windsong Cove/Ocean Pointe West) between Windsong-Carlsbad, L.P., the Association and Windsong Cove Homeowners Association, recorded on August 15, 2000 as Document No. 2000-0433079 in the Official Records of San Diego County. The Expense Agreements allocate the costs and expenses of operating, maintaining and repairing entry facilities consisting of gates, intercom systems, certain landscaping, lighting and signage used by the Association and its Members and located on the adjacent Agua Hedionda and Windsong Cove condominium developments. The Association’s share of the costs and expenses under each of the Expense Agreements is assessed against each Unit as a component of the Regular Assessments.

1.23 “Governing Documents” means these CC&Rs and any other documents which govern the operation of the Association, including, but not limited to, the Articles of Incorporation, Bylaws, Architectural Standards, Tract Map, Condominium Plans, Rules and Regulations, and Election Rules, as may be amended from time to time.

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

1.25 “Lender” means the holder of a first mortgage or deed of trust given by a Member (or his predecessor in interest), the lien of which mortgage or deed of trust is superior to all other monetary encumbrances, except real property taxes and assessments.

1.26 “Manager” means any person or company employed or retained by the Association to oversee the operation, maintenance and management of the Association.

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

1.28 “Membership Approval” and “Approval of the Membership” means approval by the affirmative vote of a majority of those Members present and voting at a duly held meeting at which a Quorum is present as defined in the Bylaws, unless provided otherwise in the Bylaws or these CC&Rs.

1.29 “Mortgage” means a deed of trust.

1.30 “Mortgagee” shall refer to a beneficiary (or its assignee) under a deed of trust and the term “First Mortgagee” shall refer to a beneficiary (or its assignee) under a deed of trust with priority over all other Mortgagees and deeds of trust.

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

1.32 “Open Space Easement” means the open space access easement that crosses the Development as depicted in Exhibit A.

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

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

1.35 “Parking Areas” shall include those portions of the Development used for the parking of vehicles.

1.36 “Patio” shall refer to a patio which is attached to a Unit and accessible through the Unit of which it is a part. Patios are referred to as “Patio” and designated as “P” on the Condominium Plan.

1.37 “Percentage Interest” means that undivided percentage ownership of the Common Area assigned to each Unit.

1.38 “Person” means a natural person, corporation, partnership, trust, association, or other entity, as recognized by law.

1.39 “Quorum” means more than 50% of the Voting Power of the Association, unless provided otherwise in these CC&Rs or Bylaws.

1.40 “Regular Assessments” means assessments other than Special Assessments and Reimbursement Assessments, levied or imposed against Members in order to perform the Association’s obligations under the Governing Documents or the law.

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

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

1.43 “Residence” means a person’s home; the place where someone lives.

1.44 “Resident” means any Person in actual possession of all or any portion of a Unit.

1.45 “Rules and Regulations” or “Rules” means the rules and regulations adopted by the Board for the general health, welfare, comfort, and safety of Members and Tenants and their respective family, guests, or invitees and to interpret and implement the Governing Documents and for the orderly conduct of the business of the Association.

1.46 “Separate Interest” means an individual Unit.

1.47 “Special Assessments” means assessments levied from time to time against Members if at any time during the fiscal year the Regular Assessments are inadequate to perform the Association’s obligations under the Governing Documents or the law, including, but not limited to, Common Area maintenance and repairs, unexpected expenses, capital improvements, and emergency repairs.

1.48 “Storage Area” means the storage area which is appurtenant to a Unit. Storage Areas are referred to as “Storage Area” and designated as “S” on the Condominium Plans.

1.49 “Tenants” and “Lessees” means those Persons who have the temporary use and occupancy of Units owned by others, whether such use is paid for in money or other value.

1.50 “Unit” means those elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Development.

- a. *Boundaries.* The lower vertical boundary shall be the finished surface of the floor thereof (finish floor elevation) as shown on the Condominium Plan. The upper vertical boundary shall be the finished surface of the ceiling and soffits thereof as shown on the Condominium Plans’ typical unit floor plans. The lateral boundaries shall be the finished surface of the perimeter walls and doors thereof. Windows and sliding doors (including all locks, latches, screens and weather stripping) are part of the Unit. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the Condominium Plan, shall be conclusively presumed to be its boundaries, rather than the metes and bounds, or other description, expressed in the deed or Condominium Plan, regardless of settling or lateral movement of a building and regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of a building.
- b. *Inclusions.* The following are part of each individual Unit: (i) all improvements to the airspace encompassed by the finished interior surfaces of the perimeter walls, floors, ceilings, windows and doors (such as but not limited to paint, wall coverings, carpet and padding, hard-surfaced flooring, cabinets and counters, electrical fixtures, plumbing fixtures, and interior walls), and (ii) electrical switches and outlets that service the Unit.
- c. *Exclusions.* Bearing and plumbing walls, air conditioning and heating ducts, drains, flutes, conduits and other utility installations, wherever located, except the outlets thereof when located with the Unit. Any equipment, mechanical devices, security system components, and Utility Lines that are located within any Unit or that run through any portion of any Unit and that service more than

one Unit are not part of that Unit and shall be deemed to be part of the Common Area.

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

1.52 “Voting Power” means the total number of Units entitled to vote, excluding those Units for which voting rights have been properly suspended.

1.53 “Water Heater Closet” means the water heater closet which is appurtenant to a Unit. Water Heater Closets are referred to as “Water Heater Closet” and designated as “WH” on the Condominium Plan.

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

ARTICLE 2: MEMBERSHIP RIGHTS AND PRIVILEGES

2.1 Membership. Each Person shall automatically become a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Unit and shall remain a Member until he or she ceases to have such recorded fee ownership interest in a Unit.

- a. *Membership Appurtenant to Units.* Membership in the Association is for the benefit of and appurtenant to the Unit to which it relates and shall not be separated from the ownership of the Unit.
- b. *No Membership for Security Interests.* Membership does not include Persons who hold an interest in a Unit merely as security for the performance of an obligation.
- c. *No Membership for Tenants.* Tenants have the same rights to use the Common Areas as Members and shall have the same duties to follow the Association’s Governing Documents, but shall not be Members and shall not have the right to vote.
- d. *No Separate Transfer of Membership.* No Member may transfer, pledge, or alienate in any way his/her membership in the Association, except upon the recorded transfer of the fee interest in the Unit to which it is appurtenant and then only to the transferee of such fee interest.

- e. *Trust.* If the record fee title to a Unit is held in the name of a trustee on behalf of a trust, the trustees of the trust shall be authorized to exercise the rights and privileges of Association membership on behalf of the trust.
- f. *Corporation.* If the record fee title to a Unit is held by a corporation, the president of the corporation, as designated in the corporation's minutes, shall be authorized to exercise the rights and privileges of Association membership on behalf of the corporation.
- g. *Partnership.* If the record fee title to a Unit is held by a partnership, the managing partner, as designated in the partnership agreement, shall be authorized to exercise the rights and privileges of Association membership on behalf of the partnership. If no managing partner has been designated in the partnership agreement, then the partnership shall deliver to the Association a written designation of the name of the partner who is authorized to exercise the rights and privileges of Association membership on behalf of the partnership.
- h. *Other Entities.* If the record fee title to a Unit is held by a legal entity not described above, the majority owner of the entity shall be considered the Owner of the Unit for purposes of membership in the Association and may exercise the rights and privileges of a Member. If there is no majority owner, an owner of the legal entity shall deliver to the Association a written designation of the name of the owner who is authorized to exercise the rights and privileges of Association membership on behalf of the entity.

2.2 Proof of Ownership. Proof of membership shall be in the form of a recorded deed showing fee ownership of a Unit.

2.3 Voting Rights. In all matters submitted for a membership vote, Members shall be entitled to one (1) vote per Unit (regardless of the number of Members having an interest in the Unit), except for those Members whose voting rights have been properly suspended pursuant to the Governing Documents and applicable law.

2.4 Inspection of Records. Members shall have the right to inspect records of the Association as provided for in the Bylaws and by law.

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

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

2.7 Encroachment Easement. Members agree that minor encroachments of the Common Area on Units or of Units on the Common Area or on other Units shall be permitted and that valid easements for the encroachments shall exist. Such encroachments shall not be considered to be encumbrances either on the Units or the Common Area.

ARTICLE 3: MEMBERSHIP OBLIGATIONS

3.1 Obligation to Follow Governing Documents. Members, Tenants and Residents shall be obligated to follow the Association's Governing Documents and to ensure that their respective family, guests, and invitees abide by the Governing Documents.

3.2 Supervision of Minors. Members shall be liable for the conduct, behavior, and proper supervision of minors residing at or visiting their Units and/or using the Association's Common Areas.

3.3 Security. Neither the Association nor any Officer, Director, Committee member, employee or agent of the Association shall in any way be considered insurers or guarantors of any level of security within the Development. Members shall be responsible for their own security and shall take appropriate measures to ensure their own security as well as that of their family, guests, invitees, and Tenants. Members may not rely on any security measures provided by the Association. Neither the Association, nor any Officer, Director, Committee member, employee or agent of the Association shall be liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

3.4 Purchase Subject to Violations. Buyers shall take ownership of Units subject to any violations by prior Members, Tenants or their respective family, guests, invitees, or pets, of the CC&Rs, Architectural Standards, or Rules which may exist concerning the Unit, whether or not such violations were disclosed by the seller of the Unit and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association. Assessments, fines, and other charges not secured by a lien on the Unit prior to transfer of title are exempt from this provision.

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

3.6 Duty to Maintain, Repair and Replace. Except for those duties specifically assigned to the Association by these CC&Rs, Members shall, at their sole expense, maintain and repair their Units, maintain, repair and replace Improvements to their Units, and maintain, repair and replace any Exclusive Use Common Areas servicing their Units. Members' obligations include, without limitation, the following:

- a. *Interior Walls and Partitions.* The walls and partitions which are contained inside Members' Units, excluding the perimeter walls and any internal load-bearing walls.
- b. *Wall, Ceiling and Floor Coverings.* All drywall in and around the Unit plus all interior surfaces of walls (including perimeter and load-bearing walls), ceilings, floors, windows and doors, including, but not limited to, plaster, paint, wallpaper, paneling, fabrics, mirrors, carpets, rugs, linoleum, hardwoods, marble, granite, tile, window coverings, and any other materials used to decorate the interior surfaces of the Unit.
- c. *Windows.* The interior and exterior of the windows of their Units shall be kept clean and in good repair. Members shall be responsible for repairing leaks and replacing damaged glass, screens, weather stripping, locks, latches, and related hardware using the material, color, quality, size, and configuration specified by the Association.
- d. *Doors.* The doors, screen doors, door frames, thresholds, weather stripping, locks, and related hardware and the exterior finishes of front doors.
- e. *Cabinets, Countertops and Appliances.* All cabinets, counter tops, and appliances, including refrigerators, stoves, ovens, dishwashers, garbage disposals, microwaves, washers and dryers, and the like.
- f. *Heating and Air Conditioning.* All mechanical equipment, heating and air conditioning equipment, heat exchangers, drip pans, valves, thermostats, control equipment, and any other mechanical equipment exclusively servicing the Unit, except that the air conditioning compressor located on the roofs of the buildings including the equipment located on the roof serving individual Units shall be the responsibility of the Association to maintain, repair and replace. Members shall be responsible for any damage to the Common Areas and other Units caused by the air conditioning equipment they are responsible to maintain, repair and replace.
- g. *Electrical, Telephone, Security and Cable.* All telephones, telephone lines, electrical wiring, light fixtures, electrical outlets, circuit breakers, and switches,

cable and/or satellite television lines locks, intercom equipment, and security systems exclusively servicing a single Unit. Central intercom and security systems installed by the Association shall be maintained by the Association.

- h. *Plumbing and Gas.* All plumbing equipment, including plumbing fixtures, toilets, faucets, bathtubs, tub and shower valves, shower pans, drain lines, sewer lines, water lines, angle stops, garbage disposals, water heaters, etc., which exclusively service the Unit. All gas lines exclusively servicing the Unit.
- i. *Washers and Dryers.* All plumbing, ducts and utility lines that exclusively service the Unit's washing machine and dryers, including but not limited to the water supply lines, vents, and exhaust fans.
- j. *Utility Lines.* The Utility Lines that exclusively service the Unit. Each Member shall have limited easements across Units and Common Areas for the limited purpose of installing, repairing or maintaining Utility Lines which cannot reasonably be serviced from their Units. Access to Units and Common Areas shall be limited to a reasonable work area and be for a reasonable time. Except in emergencies, reasonable notice and consent, which may not be unreasonably withheld, to perform such work must be obtained from the affected Unit Owner and/or the affected Association, as applicable. Immediately after the work is completed, Members shall restore Units and the Common Areas to the same or better condition which the Units and Common Areas were in prior to the commencement of such work. Such restoration work on the Units and the Common Areas shall be done at the sole expense of the Member performing the installation, repair, or maintenance work and shall be completed in a timely fashion.
- k. *Balconies and Patios.* The Balconies and Patios, as provided for in the Article in these CC&Rs entitled "Balconies and Patios."
- l. *Fireplaces.* The fireplace located inside Units, including flues, fireboxes, and fireplace mantles and any other portion of the fireplace, except that the chimney and the chimney cap is the Association's responsibility.
- m. *Parking Spaces.* Maintain their assigned parking spaces in a clean and sanitary condition.
- n. *Submeter.* The submeter providing water and other services to the Member's Unit, if any.

- o. Improvements. All improvements or alterations to the Unit or appurtenant areas by any current or prior Owner of the Unit, or by any party other than the Association, as part of any remodeling of the Unit.

3.7 Easement for Maintenance. Members are granted easements to enter the Common Areas as may be necessary to fulfill their maintenance obligations as described in the Governing Documents, provided that any damage to the Common Areas shall be repaired at such Member's sole expense and in a timely fashion.

3.8 Easements for Exclusive Use Common Area. Members have exclusive easements over the Development for the use of Exclusive Use Common Areas, including for Patio or Balcony (as applicable), Storage Area and Water Heater Closet purposes, all as shown and assigned on the Condominium Plans for the Development, and for assigned exclusive use parking space and garage storage area.

3.9 Water Damage and Mold. Each Member, and not the Association, is responsible for water damage and mold in and to Units, Common Areas, and Exclusive-Use Common Areas: (i) negligently caused by the Member, Member's Tenant or their respective family, guests, or invitees, or (ii) caused by Member's negligent failure to mitigate damage by promptly reporting signs of water entry and leaks, including but not limited to roof leaks. Each Member shall regularly inspect their Unit for plumbing leaks, water accumulation, water intrusion through windows, doors, and roofs and signs of mold. Members must periodically service and/or replace supply and drain lines to appliances, HVAC equipment, sinks, toilets, and the like in their Units.

3.10 Obligation to Carry Insurance. Members shall purchase insurance for their Separate Interests, at their sole expense, as more fully described in the Article in these CC&Rs entitled "Insurance." The Association may confirm compliance with this section but is not required to and is specifically relieved of any responsibility or liability for not confirming compliance with this section.

3.11 Liability for Damage. Members shall be liable for any and all damage to the Units, Common Areas, including Exclusive-Use Common Areas, and any personal property when the cause of such damage originates from that Member's Unit or Exclusive Use Common Area, or which was caused by the acts or omissions of such Member, Member's Tenant, or their respective family, guests, invitees, or pets. The Association shall repair, restore or replace damaged Common Areas as it deems appropriate and may impose a Reimbursement Special Assessment against the liable Member and that Member's Unit for all costs, expenses and attorney fees incurred by the Association in connection with the damage. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924(b), and 2924(c).

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

3.13 Reimbursement to Association. In the event the Association undertakes to provide materials or services that benefit a particular Member, such Member shall reimburse the Association for the costs incurred by the Association, which shall become a Reimbursement Special Assessment against the Member.

3.14 Liability for Mitigation. Members shall be liable for expenses incurred by the Association in mitigating or repairing damage to Units, Common Areas, and Improvements due to damage: (i) originating from Member's Unit, including, but not limited to, flood, fire, mold, insect, or rodent infestation; or (ii) from the negligence or willful misconduct of such Member, Member's Tenant, or their respective family, guests, invitees, or pets. Such expenses shall become Special Assessments against such Members.

3.15 Guests. Each Member shall be accountable to the remaining Members and the Association for the conduct and behavior of Persons residing with or visiting the Member or Member's Tenant in the Development.

3.16 Water Meters. Each Member, by acceptance of a deed, acknowledges that the City provides water and sewer services to the Development. Each building containing Units has its own public water meter. Public water meters are read by the City and the Association is billed for the water use shown on the public meters. Upon a majority vote of the Board, the Association may measure water use by individual Members by the use of submeters installed at each Unit. If approved by a majority of the Board, each Member's water bill would be based on the submeter reading, and each Member would be responsible for paying his/her water bill in accordance with the procedures set forth below.

- a. *Allocation of Water and Other Charges.* In order to calculate the water use and other charges attributable to each Unit, the Association shall have the right to enter into a contract with a water metering service company ("Metering Company"). The Metering Company will be responsible for reading the individual submeters, allocating the water and other charges imposed by the City for each of the individual Units and preparing the individual bills for delivery to each Member. Additionally, the Metering Company will impose a service charge for its services which will be charged to each Member. Each

Member will be responsible for paying directly to the Metering Company the amounts shown on the Member's bill. The Metering Company will provide to the Association a statement of all amounts received from the Members on a regular basis. If a Member fails to pay any amounts when due, such Member will be responsible for any penalties or delinquent amounts levied by the City and the Metering Company. Additionally, the Association shall have the right to cure any failure by a Member ("Defaulting Member") to pay the amounts due to the City. If the Association elects to cure such default, then the Defaulting Member will be responsible for reimbursing the Association. If the Defaulting Member fails to reimburse the Association, the Association will be entitled to impose a Special Reimbursement Assessment as provided under this Declaration, may enter a Unit to shut off water service to the Defaulting Member's Unit or may pursue any other remedies as provided under this Declaration. Each Member shall also have the obligation to maintain, repair and replace the submeter providing service to such Member's Unit. If a Member fails to maintain such submeters, the Association shall be entitled to maintain, repair and replace the water meter and charge the cost hereof to the Member as a Special Reimbursement Assessment or pursue any other remedies as provided under this Declaration. If, in the future, there are no companies which can provide the water metering service, then it will be the responsibility and obligation of the Association to allocate costs for water and sewer usage and the other charges levied by the City to the Members in the Development.

ARTICLE 4: DUTIES OF THE ASSOCIATION

4.1 Board of Directors. The maintenance of the Common Areas, management of the Association, enforcement of the Governing Documents, and all other acts of the Association shall be through its Board of Directors, unless provided otherwise in the Governing Documents.

- a. *Membership Meetings*. The Association shall have at least one (1) meeting of its Members each year, as provided for in the Bylaws. Annual and Special Meetings of the membership shall be held at the dates, times, and locations provided for in the Bylaws.
- b. *Director Qualifications and Meetings*. The qualifications of who may be elected to the Board shall be as provided for in the Bylaws. Meetings of the Board shall be held as provided for in the Bylaws. Meetings of the membership shall be conducted in accordance with a recognized system of parliamentary procedure selected by the Board.

4.2 Powers of a Nonprofit Corporation. The Association shall have all of the powers of a nonprofit corporation organized under the laws of the State of California, operating for the benefit of its Members.

4.3 Maintain Common Areas. The Association shall maintain the Common Areas, except as otherwise provided in these CC&Rs. Maintenance, repair and replacement obligations include, but are not limited to, the landscaping including, but not limited to, the landscaping along the Development's Harbor Drive frontage from the back of the sidewalk to the surface of the stucco wall (the attached Exhibit B shows the location of the landscape on Harbor Drive to be maintained by the Association), open space areas along bluff tops, swimming pool, spa/jacuzzis, elevators, subterranean parking garages, stairways, private driveways, gates, common area decks/courtyards, rooftop decks, trash chutes, perimeter fences/walls including all wrought iron or glass portions, and the surface, cap and structural integrity of such walls and fences, slopes, walkways, public access ways, Development monuments, lobbies, fountains, roofs, exterior building paint, except for Unit front door exterior paint, exterior lighting, except lighting controlled by Owner/metered to Owner, and air conditioning equipment located on the roof including air conditioning equipment located on the roof that serves a single unit. The Association shall be responsible for paying a share of the shared expenses for the maintenance, operation and repair of the "Entry Facilities" on the adjacent properties, as defined in the Expense Agreements. The Association shall maintain, repair and replace the Storage Area and Water Heater Closet appurtenant to a Unit and any garage storage area assigned to a Unit.

4.4 Wrought Iron and Glass Portions of Perimeter Walls/Fences. At the Association's option any wrought iron or glass portion of any wall or fence may be replaced with other materials so long as the Association determines that the view through the replacement materials is as good or better than the view through the wrought iron or glass.

4.5 Termites and Pests. In addition to any authority provided for in the Davis-Stirling Act, the Board shall have the authority and the duty to: (i) treat and/or repair Common Areas infested or damaged by insects, rodents, and wood destroying pests or organisms (including microorganisms); (ii) impose a Special Assessment against the membership for the cost of the treatment and/or repairs; and (iii) summarily remove Residents, at Residents' expense, to ensure prompt treatment and repairs as provided for in the Davis-Stirling Act. Each Owner of a Unit shall bear the costs of any damage to his Unit caused by the presence of wood-destroying pests or organisms (including microorganisms). Each Owner shall have the duty to treat and/or repair, at Owner's expense, the portions of Owner's Unit infested or damaged by insects, rodents and wood destroying pests or organisms (including microorganisms), except that the Association shall be responsible to tent a building(s) if such tenting is required for treatment of a building(s) infested by insects, rodents, and wood destroying pests or organisms (including microorganisms).

4.6 Incur and Pay Expenses. The Association shall have the power to incur and pay the operational expenses of the Association, which shall include but not be limited to, legal and accounting services; utilities; insurance; management services; vendor services, such as security, landscaping, garbage collection, pest control, street sweeping, swimming pool maintenance, elevators maintenance, cleaning, painting, and other such services; maintenance, repair, reconstruction, and replacement of all or any portion of the Common Areas or the personal property acquired by the Association; supplies and materials; the Association's share of the annual maintenance, operation and repair expenses of the entry facilities shared with the Agua Hedionda and Windsong Cove Associations, in accordance with the terms of the Expense Agreements; and such other services for the use, enjoyment and protection of the Development and its Residents as the Board may determine from time to time are reasonable, proper, or desirable.

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

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

4.9 Commercial Concessions. The Board may negotiate contracts and grant commercial concessions over portions of the Common Area, subject to Membership Approval.

4.10 Utility and Cable Easements. The Association is granted easements to enter onto Units as is necessary or prudent to: (i) install, repair, and maintain Common Area utility lines; and (ii) install, operate, and maintain transmission lines and other facilities for a community television system, high-speed internet lines, community security systems, or other similar systems; provided that any damage to a Member's Unit shall be repaired at the Association's expense and in a timely fashion to original building construction standards.

4.11 Granting Utility Easements. The Board may grant easements and rights of way in, under, or through the Common Areas for the purpose of constructing, erecting, operating, or maintaining utilities and similar services.

4.12 Limitation on Granting Easements. Limitation on Granting Easements. Granting any Member an easement for exclusive use of any portion of the Common Areas requires Approval of the Membership, as provided for in the Davis-Stirling Act.

4.13 Borrow Money. The Association may borrow and repay monies, as needed in connection with the discharge of its duties, and pledge or assign Special Assessment rights, as security for the repayment of such borrowed money. However, any loan in excess of five percent (5%) of the annual Assessments shall require Membership Approval.

4.14 No Power to Encumber Real Property. The real property assets of the Association may not be encumbered as a security for debt.

4.15 Represent Association in Litigation. On behalf of the Association, the Board may institute, defend, settle, or intervene in litigation, arbitration, mediation, administrative proceedings, or any other legal proceeding in any capacity necessary to represent the interests of the Association.

4.16 Receive Property. The Board may receive property on behalf of the Association.

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

4.18 Limitations on Sale of Real Property. The Board may exchange, sell, dedicate, or otherwise transfer any real property, including Common Area, owned by the Association only on the following conditions:

- a. Approval by a majority of the Voting Power of the Association is first obtained.
- b. No exchange, sale, dedication or other transfer may include real property to which a Member has an exclusive right to occupy.
- c. For any exchange of real property, the property received by the Association must be of equal or greater value than the property given.
- d. Any dedication of property must only be to a public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.
- e. Any election to approve an exchange, sale, dedication or other transfer must seek approval of any amendment to the governing documents necessary to effect the transfer.

- f. The sale or other transfer of property acquired by the Association in foreclosure proceedings is exempt from this Section.

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

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

4.20 Vendor Contract Limitations. Except for the contracts listed below, no contract for services shall be entered into which binds the Association for a period in excess of two (2) years, without Membership Approval.

- a. *Public Utility Contract*. A contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission. However, the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
- b. *Fire and Burglary*. Contracts for terms up to three (3) years to lease or service burglar and/or fire alarm equipment or provide protective services.
- c. *Bulk Cable Service*. Contracts for terms up to five (5) years to provide cable, internet, or satellite communications service.

- d. *Elevator Maintenance.* Contracts for terms up to five (5) years to provide maintenance and repairs to elevators.
- e. *Insurance.* Contracts for insurance, if the policies do not exceed three (3) years duration.

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

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

4.23 Discharge of Liens. If necessary, the Association shall have the power to discharge by payment any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of the lien. Prior to any Board decision to discharge a lien, the Member or Members responsible for the existence of the lien shall be given written notice and an opportunity for a hearing before the Board to present any defenses which may exist.

ARTICLE 5: ARCHITECTURAL CONTROL

5.1 No Improvements or Alterations Without Approval. No improvement, change or alteration may be made in or to any Unit, Common Area, or Exclusive Use Common Area until plans have been submitted to and approved in writing by the Design Review Committee. If improvements, additions, alterations, or modifications are different from those approved by the Design Review Committee, such improvements, additions, alterations, or modifications shall be deemed disapproved and the Member shall promptly correct the nonconforming items to comply with the Architectural Standards, the Design Review Committee's approvals, and City Requirements.

5.2 Applicants in Good Standing. Only Members in Good Standing may submit requests for approval of improvements, additions, alterations or modifications to their Units, Exclusive Use Common Areas, or Common areas appurtenant to their Units. "Good Standing" is defined to mean Members who are not delinquent by more than sixty (60) days in the payment of any Assessment, fee, or fine, and not found to be in violation of the Association's Governing Documents (following proper notice, hearing, and a finding by the Board).

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

5.4 Architectural Standards. The Board may adopt, amend, and repeal Architectural Standards. These Architectural Standards shall interpret and implement the provisions of these CC&Rs by setting forth the standards and procedures for the review and approval of proposed modifications, guidelines for architectural design, placement of any modification, color schemes, exterior finishes and materials, and similar features which are recommended for use within the Development, provided that the Architectural Standards shall meet the minimum standards required by these CC&Rs. In the event of any conflict between the Architectural Standards and these CC&Rs, the CC&Rs shall prevail.

5.5 Design Review Committee. The Board shall appoint a Design Review Committee. If the Board does not appoint one, the Board shall automatically be deemed the Design Review Committee. The Design Review Committee shall have the authority to approve, reject, modify, give conditional approvals, and give limited approvals of improvements and alterations as provided for in the Association's Architectural Standards.

- a. *Architect.* The Board may retain the services of an architect and one or more consultants to assist the Design Review Committee in its duties. Compensation for consultants' services shall be fixed by the Board. The cost of such consultants and any related expenses may be charged to those Members submitting plans for alterations and/or improvements to their Units. Any significant costs must be submitted to the Member for approval before incurred by the Association.
- b. *Conflicts of Interest.* No Director or Design Review Committee member may participate in the decision-making process of any architectural submittal made by that Director or Design Review Committee member or members of their family. Further, no Director or Design Review Committee member may participate in the decision-making process of any other architectural submittal if it results in a monetary benefit to the Director or Design Review Committee member or any company in which they or members of their family have a financial interest.

5.6 Rescinding Approval. The Design Review Committee and/or the Board shall have the authority to rescind approval of plans previously approved by the Association if they believe that there is good reason to rescind such approval.

5.7 Submission of Plans. Plans and specifications in accordance with the Association's Governing Documents, describing the proposed modification, shall be submitted to

the Design Review Committee by personal delivery or certified mail. Unless a delay in approval by the Design Review Committee is the result of (i) the applicant's failure to properly submit an application in accordance with the Association's guidelines, or (ii) a reasonable request by the Design Review Committee for additional information, the application shall be deemed approved within 45 days of being submitted to the Committee unless the application has been disapproved by the Committee. Provided, however, that all applications that violate the Association's Governing Documents or Building and Safety Codes are automatically disapproved without action by the Committee unless variances are specifically approved in writing by the Committee. Approvals by the Design Review Committee may contain conditions or requests for modification of particular aspects of the Member's architectural submission.

5.8 Review Fees and Remodeling Agreement. The Board may establish a schedule of fees which may be charged against the submitting party to defray any costs incurred by the Association, including architectural and/or engineering consultant fees, legal fees, and expenses for reviewing plans. In addition, the Board may require Members to sign a remodeling agreement.

5.9 Variances. The Design Review Committee may grant reasonable architectural variances, subject to Board approval, if the Design Review Committee determines that the variance will not: (i) constitute a material deviation from the overall plan and scheme of the Development; (ii) result in a material detriment; or (iii) create a nuisance with respect to the Common Area or any other Member. The granting of a variance by the Board shall in no event be deemed a variance or waiver as to any other Unit, nor shall any variance affect the applicability or enforceability of any provision of this Article in respect to any other Unit.

5.10 Engineering and Code Requirements. Plans and specifications approved by the Design Review Committee are not approved for engineering design, building code, or safety specifications. Approval by the Design Review Committee does not absolve Members of the responsibility of obtaining any necessary governmental approvals or permits. Members shall be responsible for ensuring compliance with applicable fire and building codes, ordinances, and specifications.

5.11 Acoustical Limitations. Except for flooring in first floor Units, all flooring shall meet or exceed a Field Impact Insulation Class ("FIIC") rating of not less than 60.

- a. *Hard-surfaced Flooring.* Installation of hard-surfaced flooring, such as marble, granite, tile, or hardwood requires the prior written approval of the Design Review Committee and is prohibited in any room except for kitchens or bathrooms.
- b. *Testing.* No test is required following the installation of any flooring, unless a neighbor complains of noise. In the event of a complaint, the Association shall

retain a company to perform the test. If the Unit being tested meets or exceeds an FIIC rating of 60, the complaining Member will be assessed a Reimbursement Special Assessment for the cost of the test. If the Unit being tested fails, the Owner of such Unit shall be assessed a Reimbursement Special Assessment for the cost and shall also take appropriate action to bring the flooring into compliance with the Association's standards, unless the Association grants a waiver for minor deviations, as provided for in these CC&Rs.

- c. *Grandfathering.* All floors approved by the Board and installed prior to the recordation of these restated CC&Rs are grandfathered, but shall be brought into compliance whenever the flooring is replaced or nuisance noise issues cannot be resolved by other means.

5.12 Wall Coverings. No alteration, repair or replacement of wall coverings in a Unit which may diminish the effectiveness of the sound control engineering in the buildings in the Development may be made.

5.13 Inspection. The Association shall have the right, but not the obligation, to periodically inspect any improvements of which plans were approved by the Design Review Committee. Members shall allow inspection and any improvements may be halted and the Member fined if inspection is not allowed. Such inspections do not relieve a Member from his/her duty to comply with the Association's Architectural Standards and all applicable building and fire codes.

5.14 Building Department and Association Approvals. Any construction, repair, modification, or alteration of any Improvement requiring the issuance of a building permit shall be submitted by the Member to the appropriate governmental entity for review and approval. In the event of a conflict in the conditions of approval imposed by the governmental entity and the Design Review Committee, the more restrictive conditions shall control. Nothing herein shall limit the Design Review Committee from imposing conditions of approval which are more restrictive than conditions imposed by governmental agencies.

5.15 Mechanics' Liens. Members shall ensure that no lien is placed against any other Unit or against the Common Areas for labor or material furnished to their Units. If a lien is placed against the Common Areas and other Member's Units, and the responsible Member does not immediately cause the removal of the lien, the Association may, after written notice to the responsible Member, pay the amounts necessary to have the lien removed and levy a Reimbursement Special Assessment against the responsible Member.

5.16 Hold Harmless and Indemnify. Approval of plans by the Association signifies only a general conformance with its Architectural Standards and not with Building and Safety

Code compliance, lot lines, easements, or construction best practices. The Association and its Design Review Committee, Members, Officers, Directors, employees, and agents shall not be liable and shall be held harmless and indemnified for mistakes in judgment or negligence arising out of or in connection with the Association's approval or disapproval of plans.

5.17 Combining Units. No Units may be combined without prior written Board approval. Combining Units shall have the following consequences: (i) the Percentage Interest in the Common Area allotted to the combined Units shall be equal to the sum of the Percentage Interests in the Common Area of each of the combined Units; (ii) the Assessments due and owing on the combined Units shall be equal to the sum of the Assessments levied against each of the respective Units so combined; and (iii) the Owner of the combined Units shall continue to have the same number of votes assigned to the Units before they were combined.

5.18 No Right to Divide Units. No Member shall have the right to divide any Unit; provided, however, that once two or more Units have been combined, the Owner of such combined Units may seek written approval of the Board of Directors to divide the Units and thereby restore them to their original dimensions and footprint.

ARTICLE 6: BALCONIES AND PATIOS

6.1 Member Maintenance of Balconies and Patios. Members shall, at their sole expense, have the duty to maintain the floors and surfaces of the interior walls of their Balconies and Patios.

- a. *Clean and Sanitary*. Members shall keep their Balconies and Patios in a clean and sanitary condition. However, any water used in cleaning Balconies may not be permitted to unreasonably spill over the edge of the Balcony onto other Units or the Common Area.
- b. *Balcony/Patio Doors*. Members shall repair and maintain the Balcony and Patio doors, door casings, thresholds, flashing, weather stripping, waterproofing, caulking, door guides, and any other related hardware and sealants associated with their Balcony or Patio doors.

6.2 Association Maintenance of Balconies and Patios. Excluding the Member obligations provided for above, the Association shall have the duty to repair, replace and maintain the exterior surfaces, railings, and structural components of Balconies and Patios, to replace surface finishes and water proof the floors of the Balconies and Patios and to maintain, repair and replace fences, gates and latches appurtenant to the Balconies and Patios. Subject to the notice provisions in these CC&Rs under "Right of Entry," the Association shall have the right to enter upon any Balcony or Patio in connection with any maintenance or construction for which the Association is responsible.

6.3 Right to Inspect and Repair. To ensure compliance, the Association shall have the right to enter the Balconies and Patios to inspect them. Failure by a Member to maintain a Balcony or Patio shall give the Association the right to repair it in accordance with the notice and repair provisions of these CC&Rs. The cost of such repairs shall become an Assessment against the Unit, as provided for by these CC&Rs.

6.4 Balcony and Patio Alterations. Members shall not have the right to paint or alter their Balconies or Patios without the prior written approval of the Design Review Committee.

6.5 Balcony Ledge. No plants or hanging vines shall be permitted to extend over the edge of any Balcony, except as provided for in the Rules and Regulations. Nor shall any item be placed temporarily or permanently on any ledge, except as provided for in the Rules and Regulations. Laundry, rugs, or other items may not be draped over any Balcony or Patio wall or railing.

6.6 Dangerous Acts. No Member shall throw, or permit to be swept or thrown, any dirt, water, objects, or other substance of any kind whatsoever from his/her Unit, its doors, windows, or Balconies.

6.7 Unsightly Objects. In no event shall unsightly objects (including, but not limited to, laundry, mops, appliances and, bicycles) be placed or stored on a Balcony or Patio where they may be seen by other Members or by the public in general. Members shall keep their Patios and Balconies in a clean and sanitary condition and free of debris, trash, animal feces, and animal waste bags.

6.8 Balcony and Patio Furniture. Members shall have the right to furnish their Balconies and Patios with outdoor furniture, as provided for in the Rules and Regulations. The Association reserves the right to regulate the colors of such outdoor furniture, including umbrellas.

6.9 View Obstructions. No vegetation or other obstruction shall be planted or maintained upon any Balcony or Patio which shall unreasonably obstruct the view from any other Unit. Any item or vegetation which, in the opinion of the Board, creates an unreasonable view obstruction shall be removed or pruned to the Board's satisfaction.

6.10 Watering Plants. No Member shall water his/her plants or use water on his/her Balcony in such a way as to cause water to drip, spray, or flow onto the Balcony, Patio, or windows of another Unit. Automatic watering systems are prohibited.

6.11 Balcony Weight Limitations. No Member shall allow the placement of unreasonable weight loads on his/her Balcony. The number and size of plants shall be regulated

by the Rules and Regulations. No refrigerators, freezers, or other appliance shall be permitted on Balconies or Patios.

6.12 Damage. Members shall be liable for any damage to their Balconies or Patios caused by the acts, omissions, or willful misconduct of such Members, Residents, guests, or their family or pets. The Association shall cause the damage to be repaired and the expenses related to the repair assessed against the Member as a Reimbursement Special Assessment.

6.13 Balcony and Patio Water Damage. Members shall be responsible for the cost of repairing any damage to: (i) their own property; (ii) the property of others; and (iii) the Common Areas resulting, from water intrusion from the Balconies or Patios appurtenant to their Units due to waterproofing failures for which the Member is responsible.

6.14 Secondary Access through Patios. Certain Exclusive Use Area Patios are appurtenant to one or more Units and may be used by the Members, their families, Tenants and guests of such Units. Such Patios connect to rear stairways to provide secondary emergency ingress and egress to the Development. Patio areas, access ways and staircases must be kept open and accessible at all times.

ARTICLE 7: GENERAL RESTRICTIONS

7.1 Access Devices. Entry facilities at entrances to the Development and certain recreational facilities may require keys or remote controls (collectively "Access Devices"). If Access Devices are required, they will be issued by the Association to Members. Each Member acknowledges that Access Devices remain the property of the Association, and that they are provided for use by Members and Residents of the Development only. By accepting and recording a deed to a Unit, each Member covenants and agrees not to copy any such Access Device or allow any Person who is not a Resident of the Properties to possess or use any Access Device to gain entry to the Development.

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

7.3 Barbecues. Except for propane or electric barbecues in U.L.-approved receptacles designed for such purposes, barbecues are prohibited. The hours of operation, type of equipment, and rules regarding their operation shall be in the Rules and Regulations. Residents shall take reasonable precautions to minimize smoke from entering other Units. Barbecues are not permitted in the Common Area.

7.4 Drones. A "drone" is defined as a powered aerial vehicle that flies autonomously or is remotely piloted. The operation of drones in the Development, if allowed by the

Association, must comply with the Association's Rules and Regulations. No person may operate, cause, allow or authorize the operation of a drone in the airspace above any portion of the Development in such a way as to invade the privacy of Association members, guests, residents or vendors, whether equipped with a camera or otherwise. Prior written approval of the Board of Directors must be given for drone operations that fall outside the Rules and must comply with such terms and conditions as the Board may deem appropriate under the circumstances.

7.5 Flammable Materials. Under no circumstances may explosives, fireworks, or highly flammable or highly corrosive materials be stored or used by Members, Tenants, or their respective family, guests, or invitees in Parking Areas, Common Areas, Exclusive Use Common Areas, or Units.

7.6 Health/Safety Hazards. Members shall not permit conditions which constitute a health, safety, or fire hazard to exist in their Units, Balconies, Patios, Storage Areas, assigned garage storage areas, Parking Areas, or Exclusive Use Common Areas.

7.7 Spas and Hot Tubs. No spa or hot tub may be installed in any Unit. Spas, hot tubs, and saunas are prohibited on Patios and Balconies.

7.8 Laundry. No clothesline or drying rack may be erected, maintained or used in the exterior of the Development, except as allowed by law. No item may be draped over fences, trees or Balcony or Patio walls or railings.

7.9 Massage/Vibrating Beds. Massage/vibrating beds are prohibited within a Unit. Massage/vibrating beds existing within a Unit prior to the recordation of these CC&Rs are grandfathered, but shall be removed if the Unit transfers ownership or occupancy or nuisance noise issues cannot be resolved by other means. Residents qualifying for a massage/vibrating bed as a reasonable accommodation under the federal Fair Housing Act or the California Fair Employment and Housing Act will be so accommodated.

7.10 Nudity. Public displays of nudity are prohibited.

7.11 Nuisance. No Member may cause or permit to be caused anything which constitutes a nuisance.

- a. *Unreasonableness*. To constitute a nuisance, the activity must be such that it causes an unreasonable disturbance or annoyance, be unreasonably injurious to health, be indecent, or be unreasonably detrimental to Persons or property.
- b. *Secondhand Smoke*. Any "exfiltration" (air flow outward through a wall, building envelope, window, etc.) of any noxious odor or smoke, including tobacco smoke, from a Unit, whether through windows, doors, vents, or other

means, is prohibited. It is the responsibility of the Member causing such exfiltration of smoke to prevent such exfiltration.

- c. *Allergies.* Residents with allergies or sensitivities must, at their own expense, take precautions to protect themselves against commonplace levels of noise, odors, dust, smoke, gases, pollen, or other environmental pollutants.
- d. *Board Determination.* Because a nuisance is largely subjective, the Association is not obligated to become involved in disputes where, in the opinion of the Board, the alleged disturbance does not constitute a nuisance. Despite the Board's determination, the parties retain the right to take appropriate legal action against each other without involving the Association.

7.12 Obstruction of Common Areas. No Common Area shall be obstructed or used for other than its intended purpose, except as designated by the Board.

7.13 Planters in Common Areas. Members shall not place planters in the Common Areas except that the following shall be allowed:

- a. *First Floor Units.* Planters with trays raised a minimum of one (1) inch off the ground shall be permitted within eight (8) feet of the Member's front entry door and rear patio gates.
- b. *Second and Third Floor Units.* Planters with trays raised a minimum of one (1) inch off the ground shall be permitted within eight (8) feet of the Member's front entry door.

7.14 Quiet Enjoyment. No one may engage in any abusive or harassing behavior or any form of intimidation or aggression, whether verbal or physical, against other Members, Residents, guests, invitees, members of the Board, or the Association's management, employees, agents, or vendors. Because the breach of quiet enjoyment is largely subjective, the Board may choose to act only against egregious breaches. In the event the Association chooses not to act on a complaint of breach of quiet enjoyment, or the complaining party believes the Association's action is not sufficient, such party may take legal action to enforce this provision against other Residents, but specifically waives his/her right to take action against the Association and its Officers, Directors, employees, and agents in their handling of the party's complaint.

7.15 Residential Use. No Member shall use or permit his/her Unit or any portion of it to be occupied or used for any purpose other than a private residential dwelling. Units shall not be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Residents may use a room in their Unit as a home office, provided that the primary use of the

Unit is as a Residence, no advertising or signage is used in any manner in connection with the office use, package deliveries are kept to a minimum, and no customers, clients or patients frequent the Unit. The Board may adopt Rules regarding the use of such offices.

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

7.17 Sale of Unit. Open houses, brokers' caravans and other matters relating to the sale of a Unit shall be provided for in the Rules and Regulations.

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

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

7.20 Smoking and Vaping. All smoking, vaping, and use of e-cigarettes is prohibited in the Common Areas and Exclusive Use Common Areas, including Balconies and Patios. "Smoking" shall include, but not be limited to, any practice by which a substance, whether tobacco, marijuana or any other substance, is burned for the purpose of inhaling its smoke. "Vaping" means inhaling water vapor to obtain nicotine, cannabis or any other substance. "E-cigarette" means an electronic device that vaporizes liquid nicotine, cannabis or any other substance.

7.21 Marijuana and Controlled Substances. Growing or distributing marijuana or medical marijuana, whether or not for personal use, as well as manufacturing, synthesizing, producing or distributing any illicit or controlled substances as defined by applicable state and/or federal laws is strictly prohibited in the Development, whether in Units, Exclusive Use Common Areas, or Common Areas.

7.22 Staircases. Rear staircases and walkways serving one or more Units are intended solely to provide secondary ingress and egress and emergency access. Rear staircases and walkways are to be kept open, accessible, and clear of debris at all times. Under no circumstances may any items be kept, stored or displayed on the staircases or walkways.

7.23 Toilets. No "turbo" toilets or any other types of noisy toilets are permitted.

7.24 Trash Chutes. Cardboard boxes may not be disposed of by placing them into the trash chutes. Under no circumstances may explosives, fireworks, or highly flammable or corrosive materials be disposed of in the trash chutes or anywhere else in the Development.

7.25 Use of Independent Contractors. Members may use independent contractors to perform work in their Unit subject to the Association's Construction Guidelines. Such contractors shall be licensed and insured as required by law. The Association may, but is not required to, and is specifically relieved of any responsibility or liability for policing this provision. Members shall be liable for any injury to persons or damage to the Common Areas, Exclusive Use Common Areas, Units and any personal property caused by the acts or omissions of such Member's contractor. The Association may in its discretion repair, restore or replace such damaged property and may impose a Reimbursement Special Assessment against the liable Member and that Member's Unit for all costs, expenses and attorney fees incurred by the Association in connection with the damage. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924(b), and 2924(c).

7.26 Window Coverings. All window coverings that are visible from outside a Unit must be white or off-white in color. The Rules and Regulations may identify other types and colors of exposed window coverings that are permitted or prohibited in the Development. Appropriate window coverings must be installed on windows at all times. No window may be covered by paint, aluminum foil, newspapers, bed sheets, cardboard, blankets, or other similar items. No Member may tint any window in a Unit without the prior written consent of the Design Review Committee.

ARTICLE 8: LEASE AND OWNERSHIP LIMITATIONS

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

8.1 No Transient Use. Units may not be rented for transient, hotel, fractional or similar purposes or any time-sharing arrangement under which occupancy rights for specific periods are distributed between two or more persons. Units may not be advertised in any manner that would give the appearance the Unit is available as a short-term, transient, vacation or time-share rental.

8.2 Lease Requirements. No Member shall lease less than the entire Unit. Members leasing their Units shall provide the Association with a copy of the lease agreement with their Tenants within five (5) business days of executing such lease agreement.

8.3 Lease Addendum. Any lease or rental agreement between Member and Tenant shall be in writing. In addition, Member, Tenant, and the Association shall execute a "Lease Addendum" supplied by the Association. Member and Tenant shall agree, at a minimum, to the following terms: (i) the lease is for the entire Unit; (ii) Member transfers any right to use Common Area facilities to the Tenant; (iii) no assignments or subleases are permitted; (iv) Tenant agrees to comply with the Association's Governing Documents and be subject to the same disciplinary procedures and fines as Members; (v) Member assigns rents to the Association in the event Member becomes sixty (60) days delinquent in the payment of Assessments to the Association; (vi) Tenant shall carry renter's insurance; (vii) Member grants the Association the power to institute an unlawful detainer action on his/her behalf for violation of the terms of the Lease Addendum; and (viii) in the event of a conflict, the terms of the Lease Addendum supersede the terms of any other agreement between Member and Tenant. In the event a Lease Addendum is not executed as described above, Member and Association shall nonetheless be bound by the terms of this section as though the Lease Addendum had been executed.

8.4 Governing Documents. Members shall provide their Tenants with copies of all Governing Documents, including, but not limited to, the CC&Rs, Bylaws, and Rules and Regulations, as well as any applicable amendments, and must ensure compliance with all provisions of the Governing Documents.

8.5 Transfer of Common Area Privileges. Any Member residing off-site and whose Unit is occupied by others automatically relinquishes to their Unit's Residents the Member's rights to use the Association's Common Area facilities until the Member re-takes possession of the Unit.

8.6 Move-In Fee. The Association shall have the right and power to levy a two hundred and fifty dollar (\$250) move-in fee per Unit each and every time a new Tenant or a new Owner moves into an unfurnished Unit. Said move-in fee shall become due and payable upon occupancy of the Unit. The move-in fee shall cover the Association's expenses incurred as a result of the Member or Member's Tenant moving into and out his or her Unit.

8.7 Transfer of Occupancy. Members living offsite shall provide the Association with the name, address, phone number, and email address of all Unit Residents and any change in occupancy with fifteen (15) days of such change in occupancy.

8.8 Repair Damage. Members shall be liable for any and all damage to the Units, Common Areas, including Exclusive-Use Common Areas, and any personal property when the cause of such damage originates from that Member's Unit or Exclusive Use Common Area, or which was caused by the acts or omissions of such Member, Member's Tenant, or their respective family, guests, invitees, or pets. The Association may in its discretion repair, restore or replace such damaged property and may impose a Reimbursement Special Assessment against the liable Member and that Member's Unit for all costs, expenses and attorney fees incurred by

the Association in connection with the damage. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924(b), and 2924(c).

8.9 Unlawful Detainer. Members who lease their Units shall be responsible for assuring their Tenants comply with the Association's Governing Documents. A Member's failure to take legal action against his/her Tenant who is in violation of the Governing Documents (including the institution of proceedings in unlawful detainer) within ten (10) days after receipt of written demand to do so from the Board shall entitle the Association to institute unlawful detainer proceedings on behalf of such Member and against the Tenant. Any expense the Association incurs, including attorneys' fees and costs of suit, shall become a Special Assessment against the Unit.

8.10 Assignment of Rents. As security for the payment of Assessments, fines, and other sums owed to the Association, Members who lease their Units hereby pledge their rights as landlords (including the right to receive rent) to the Association. In the event a Member becomes delinquent in payment of Assessments or fines to the Association, the Association may require the Tenant to direct any and all rent payments to it until such deficiencies have been paid in full. Members shall have no right to collect these amounts from Tenants and may not evict Tenants for complying with the Association's demand for rents.

8.11 No Criminal Activity. No Person may reside in any Unit if they engage in criminal activities. For purposes of this section "criminal activities" means drug-related activities (including the illegal manufacture, sale, distribution, use or possession of a controlled substance), gang related activities, unlawful use or discharge of firearms, prostitution, or any misdemeanors or felonies enumerated in the California Penal Code. For purposes of this section "reside" means the use, residency or occupancy of any Unit by any Person for more than five (5) consecutive days or more than ten (10) aggregate days, whether or not consecutive, in any one calendar year. In addition, no Owner of a Unit shall permit, by rental agreement or otherwise, Persons who engage in criminal activities to reside in their Unit.

ARTICLE 9: PETS

9.1 Pet Limitation. Usual domesticated dogs, cats, fish, and birds may be kept as household pets. No more than two (2) pets per Unit are permitted. No animal shall be kept, bred, or maintained: (i) for any commercial purpose; (ii) in unreasonable numbers; or (iii) for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Members. The Board may set additional restrictions, rules, and regulations regarding the quantity, kinds and sizes of pets, and tanks which may be kept and other pet issues.

9.2 Size Limitation. Two (2) pets residing together in the same Unit may not exceed a combined total weight of sixty (60) pounds.

9.3 Grandfathered Pets. Pets residing at the Association on the date of recordation of these CC&Rs which were not in violation prior to that date, but which are prohibited under these CC&Rs, are permitted; provided, however, those pets are registered with the Association. Residents may keep any such registered pets for as long as the Resident resides in the Development. However, once the Resident has moved from the Development the pet cannot remain in the Development. If the pet has died it may not be replaced, except as provided for in these CC&Rs.

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

9.5 Nuisance. Members shall be liable to the Association and other Members for any damage to Person or property or nuisance noise caused by the pets of such Member, Member's Tenant, or their respective family, guests, or invitees. The Board shall have the right to prohibit any pet which, in its opinion, constitutes a nuisance to other Members pursuant to evidence provided at a noticed hearing.

9.6 Dangerous Animals. No animal may be kept in the Development which the Board has determined to be aggressive or dangerous pursuant to evidence provided at a noticed hearing. Pets that exhibit aggressive or dangerous behavior shall, upon request of the Board, wear a muzzle while in the Common Area until a determination is made by the Board as to whether the pet will be allowed to remain in the Development.

9.7 Prohibited Animals. The following breeds of dogs may not be kept as pets: Pit Bulls, German Shepherds, Malamutes, Chows, Great Danes, Rottweilers, Husky-types, Wolf-dog hybrids, Doberman Pinchers, Akitas, and Jindos. The term Pit Bull refers to any dog that is or is mixed with a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog that exhibits physical traits of any one or more of these Pit Bull breeds or any dog exhibiting those distinguishing characteristics which conform to the standards established by the American Kennel Club ("AKC"), United Kennel Club ("UKC"), or American Dog Breeders Association ("ADBA") for any of these Pit Bull breeds. If a dog's breed is unknown or disputed, the Board's determination that the dog exhibits the physical traits or distinguishing characteristics of one of these prohibited breeds which conform to the standards established by AKC, UKC, or ADBA, is sufficient to expel the dog from the Development. A member appealing the Board's decision has the burden to show

the dog is not of a prohibited breed. A Member's failure to appeal the Board's decision within thirty (30) days of receiving the Board's determination letter shall be deemed an acceptance and agreement with the Board's determination. The Association may restrict other categories of animals which are dangerous or have aggressive tendencies, as designated by the insurance industry or a governmental agency.

9.8 Liability. Every Member shall be liable for any injury to Persons or property caused by any pet brought or kept within the Development by the Member, Member's Tenant or their respective family, guests, or invitees.

9.9 Control. No pets shall be allowed in the Common Area, except as may be permitted by the Rules. No dog shall enter the Common Area, except while on a leash which is not more than seven (7) feet in length and is held by a Person capable of controlling the dog. The Association may cause any unleashed dog found within the Common Areas to be removed to a pound or animal shelter under the jurisdiction of the city or county in which the Development is located.

ARTICLE 10: VEHICLES AND PARKING

10.1 Management of Parking. The Association shall manage and control the use of all Common Area parking and streets.

10.2 Restricted Parking. Only the following types of vehicles may be parked or stored in parking spaces: automobiles, trucks, motorcycles, and mopeds. Vehicles shall be parked completely within the parking space. No RV, camper, boat, recreational water craft, trailer, off-road modified or any other similar vehicle is permitted in any portion of the Common Areas or in any parking space. Only permitted vehicles may be stored in parking spaces. All vehicles operated in the Development must be licensed and insured as required by law.

10.3 Commercial Vehicles. Commercial vehicles, including pickup trucks 3/4 ton or larger panel trucks, tow trucks, stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, taxis, buses, vans designed for 10 people or more, vehicles with commercial signage, and the like, are prohibited, except as provided in the Rules and Regulations.

10.4 Exclusive Use Parking. The current parking space assignments per a review of recorded documents, other than Member deeds, are set forth in Exhibit D, attached hereto and incorporated herein. This information is provided as a courtesy to the Members and will be the basis of any parking enforcement unless an owner presents sufficient evidence to the contrary. The Association has not reviewed Member deeds and makes no representation herein as to the current legal or record assignment of parking spaces. It is each Owner's sole responsibility to confirm that his/her vehicle can fit within the Owner's Exclusive Use Common Area parking

spaces. Each Owner is responsible to confirm the subterranean garages are accessible for his/her vehicle(s), including overhead clearance.

10.5 Exchange or Transfer of Exclusive Use Common Area Parking Spaces. Each Member may exchange or transfer assigned Exclusive Use Common Area parking spaces if (a) a deed of conveyance identifying the exchanged or transferred Exclusive Use Common Area parking spaces and the exchanging Members or transferor and transferee and their respective Units, is executed by the Members and their First Mortgagees and recorded in the Official Records of San Diego County; and (b) such exchange or transfer does not reduce the number of parking spaces appurtenant to each Unit below the two (2) that are required by the City for each Unit. The Members shall deliver a copy of the recorded deed of conveyance to the Association as soon as possible after recordation. Notwithstanding anything to the contrary in these CC&Rs, Exhibit D attached to these CC&Rs may be amended by the Board to show such exchange or transfer of Exclusive Use Common Area Parking Spaces and membership approval is not required for such amendment.

10.6 Guest Parking. Guest parking is limited to no more than seventy-two (72) hours in the garage per vehicle and no vehicle shall be permitted to park in guest parking, except as provided for in the Rules and Regulations. Members' guest parking may be suspended for delinquencies and rules violations.

10.7 Renting of Parking Spaces. No parking space may be rented to or leased to a Member or a non-Member, except to a Tenant in connection with the lease of a Unit.

10.8 Proper Operating Condition. All vehicles shall be maintained in proper operating condition, so as not to be a hazard or nuisance by noise, exhaust emissions, or appearance. All vehicles shall carry current registration tags and shall be insured.

10.9 Limited Operation. The engines of vehicles shall not be allowed to operate in the Common Areas except as may be necessary to move the vehicle into or out of the Parking Areas.

10.10 Electric Vehicle Charging Stations. Members may, with written approval of the Design Review Committee, install at their own expense an electric charging station. The Association may impose reasonable requirements on the location and installation of the equipment. All electrical work must be done by a licensed electrician with appropriate permits from the Building Department. Members must also comply with Section 4745 of the Civil Code or any successor statute.

10.11 Noise Limitation. All vehicles must be configured so as to provide for their quiet operation.

10.12 Repair of Vehicles. No Member shall construct, repair, or service any vehicle within any portion of the Development. However, to the extent necessary to move a vehicle to a proper repair facility, emergency repairs are permitted.

10.13 Washing of Vehicles. Vehicles may not be washed or detailed in the Development.

10.14 Fluid Leaks. Members must keep the Common Area free of fluids such as oil, radiator coolant, brake fluid, power steering fluid, etc. Members who fail to do so may be fined or may be subject to a Reimbursement Assessment for the cost of cleaning the affected areas.

10.15 Theft or Damage. The Association shall not be liable for any loss or damage suffered by any Member, Tenant, or guest by reason of theft of or damage to any Vehicle or Vehicle contents, unless caused by the Association's intentional misconduct or gross negligence.

10.16 Impeding Access. No vehicle shall be parked in such a manner as to impede or prevent ready access to any door, gate, entrance, or exit.

10.17 Access Facilities. Vehicular access into the Development from public streets is by easement over private driveways located outside the Development in the Agua Hedionda and Windsong Cove Condominium Developments ("Adjacent Projects"). Access to the driveways in the Adjacent Projects is through electronic gates on Chinquapin Avenue. The gates in the Adjacent Projects are generally left open. However, they are under the control of the associations formed to operate and manage the Adjacent Projects. When the gates are closed, guests in vehicles must use the gate intercom systems in the Adjacent Projects to gain access to the Development. Pedestrians will have access to the Development through locked pedestrian gates located at the perimeter of the Development. The Association and the homeowner's associations in the Adjacent Projects will each share in the cost of operation and maintenance of the vehicular gates in the Adjacent Projects per the Expense Agreements, and the Members will share the use of the vehicular gates with the residents and guests in the Adjacent Projects. The Association has no control over who uses the gates in the Adjacent Projects or over their operation.

10.18 Access to Public Streets. As a condition of approval of the Development, the City required that Harbor Drive be closed to direct vehicular access to and from the Development. Accordingly, Residents of the Development have no direct access to the Development from Harbor Drive. Instead, Residents of the Development and their guests have access to the Development by way of access easements over Aguila Street, Canario Street and Layang Layang Circle. A legal description of the access easement is attached as Exhibit C. The preceding restriction against direct access to and from Harbor Drive may be modified or removed in the future only as determined and approved by the City. Upon the date of the City's approval for any such modification or removal, the access restriction in this Section 10.18 will cease to be in effect, vehicular access to the Development from public streets as described in Section 10.17 of