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Cielo Vista Homeowners'
Association of Hollister, Inc.


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Cielo Vista HOA
121 Tierra Del Sol
Hollister, CA 95023

**CIELO VISTA HOMEOWNERS' ASSOCIATION OF HOLLISTER, INC.
DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS**

ARTICLE I: DECLARATION

Section 1.1 Declarant: Declarant is CIELO VISTA HOMEOWNERS' ASSOCIATION OF HOLLISTER, INC. a non-profit Mutual Benefit Corporation organized, existing, and in good standing under the Laws of the State of California.

Section 1.2 All of Lots 1 through 75, and Parcel A, as shown upon that certain Map entitled "Tract No. 204, which Map was filed for record in the Office of the Recorder of San Benito County, State of California, on November 19, 1987, in Vol. 10 of Maps, page 22, and Parcel 1(Lot 76) of Parcel Map Book 8, page 76 on April 14, 1994 (referred to hereafter as "The Maps").

Section 1.3 Purpose: The Declarant's intention is to impose upon the real property described in 1.2 above mutually beneficial restrictions as provided for by the Davis-Stirling Common Interest Development Act (California Civil Code Sec.4000 et seq.) as a Common interest development defined by California Civil Code Sec. 4100 under a common scheme for the improvement, maintenance and benefit of all of the Lots shown on the Map and the Owners thereof.

Section 1.4 Plan: The Declarant hereby establishes by this Declaration a plan for the individual ownership of the real property Lots consisting of those certain parcels of land as shown on the Map, together with those single family residential improvements thereon as well as the "Common Area" as defined hereafter.

Section 1.5 Declaration: NOW, THEREFORE, the Declarant hereby declares that the Lots as described in 1.2 above in the Map are held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Development and every part thereof. All the limitations, covenants, restrictions, and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title, or interest therein or any part thereof, and shall be for the benefit of each Owner of any portion of said Development or any interest therein and shall inure to the benefit of and be binding upon each successor in interest.

ARTICLE II: DEFINITIONS

Section 2.1 "Association" means the CIELO VISTA HOMEOWNERS' ASSOCIATION OF HOLLISTER, INC., which is a non-profit mutual benefit corporation, membership in which shall be limited to Owners (as hereinafter defined) and in which all Owners have a membership interest.

Section 2.2 "Beneficiary" means and refers to a mortgagee under a mortgage or a beneficiary under a deed of trust encumbering a Lot, as hereafter defined.

Section 2.3 "Board" or "Board of Directors" means the governing body of the Association.

Section 2.4 "Bylaws" shall mean the bylaws of the Association which are or shall be adopted by the Board.

Section 2.5 "Common Area" means all real property owned by or held in trust for the benefit of the Association for the common use and enjoyment of its members, but does not include real property over which the Association has only an easement.

Section 2.6 "Declarant" refers to CIELO VISTA HOMEOWNERS' ASSOCIATION OF HOLLISTER, INC.

Section 2.7 "Declaration" means and refers to the within Declaration of Restrictions.

Section 2.8 "Director" means and refers to a member of the Board of Directors.

Section 2.9 "Institutional Lender" shall mean any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any Lot.

Section 2.10 "Lots" mean those certain parcels of land together with the single-family residential improvements attached hereto, described as Lots 1 through 76 of the Maps.

Section 2.11 "Maps" refers to that certain Subdivision Map entitled Tract 204, filed in Vol. 10 of Maps, at page 22, County of San Benito, on November 19, 1987, and Parcel 1, Parcel Map Book 8, at page 76.

Section 2.12 "Member" means and refers to those Lot Owners who are members of the Association pursuant to Article IV hereof.

Section 2.13 "Mortgage" means a deed of trust as well as a mortgage.

Section 2.14 "Mortgagee" means a beneficiary under or holder of a deed of trust as well as a mortgage.

Section 2.15 "Owner" or "Owners" means the record Owner or Owners, whether one or more persons or entities, of a fee simple title to a Lot, and a contract vendee of a Lot, but excluding any person or entity having such interest merely as security for the performance of an obligation.

Section 2.16 "Development" and "Property" mean the entire parcel of real property described above, and such additions thereto as may later be brought within the jurisdiction of the Association.

Section 2.17 "Rules" means the rules adopted by the Association pursuant to this Declaration.

**ARTICLE III: DESCRIPTION OF DEVELOPMENT, ANNEXATION, DIVISION OF
PROPERTY AND CREATION OF PROPERTY RIGHTS**

Section 3.1 Property Subject to Declaration: All the real property shown on the Maps is hereby declared to be subject to this Declaration, as well as any additional property which may be annexed thereto pursuant to the provisions of this Declaration.

Section 3.2 Annexation:

A. Additional real property may be annexed upon the approval in writing of the Association, pursuant to a vote or written consent of not less than 66-2/3rd% of the total votes of the voting power of its Members, the Association and the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file to record a Declaration of annexation. A Declaration of annexation shall be recorded covering the applicable portion of the property to be annexed. This Declaration may contain such complementary additions and modifications to this Declaration as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this Declaration. Upon annexation becoming effective, all the property so annexed shall become subject to the recorded Declaration and any amendments thereto describing such Property. Articles, Bylaws and current rules of the Association with the same force and effect as if the annexed property was originally part of the Property described herein.

B. Voting specifications set forth in the Declaration, Bylaws, and Articles, shall apply to the entire number of votes of all annexed phases.

C. Assessments collected from Owners of the Property may be expended by the Association without regard for the phase from which such assessments came. All Owners shall have ingress and egress to and use of all portions of any Common Areas throughout the Development, subject to the provisions of this Declaration, the Bylaws, Articles, and the rules of the Association currently in effect.

D. Future improvements to the Development will be consistent with initial improvements in terms of quality of construction.

Section 3.3 Partition Prohibited: The Common Areas will remain undivided as set forth above. No Owner shall bring any action for partition. This Restriction is necessary to preserve the rights of the Owners with respect to the operation and management of the Development. Judicial partition by sale of a single Lot owned by two or more persons and division of the sale proceeds is not prohibited hereby but physical partition of a single Lot is prohibited.

Section 3.4 Common Area Ownership: Declarant is not conveying title to any Common Areas. Common Area ownership is referred to in this Declaration to allow the Association the flexibility to acquire Common

Areas in the future should such Association desire to do so. Every Owner shall have a right and easement of enjoyment in and to any Common Area which shall be acquired by the Association in the future, and such Common Areas shall be appurtenant to and the use and enjoyment thereof shall pass with title to every Lot and unit subject to provisions of this Declaration.

ARTICLE IV: HOMEOWNERS ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 4.1 Organization: The Association is a non-profit mutual benefit corporation charged with the duties and empowered with the rights set forth herein and, in the Bylaws and Articles of Incorporation. Its affairs shall be governed by this Declaration, the Articles, the Bylaws and the rules of the Association. If the Association as a corporate entity is dissolved, a non-profit, unincorporated Association shall forthwith and without further action or notice be formed to succeed to all the rights and duties of the Association. The affairs of such unincorporated Association will be governed by the laws of the State of California and, to the extent consistent therewith, by this Declaration, the Articles and the Bylaws of the Association as if they were created for governing the affairs of an unincorporated Association.

Section 4.2 Membership: The Owner of a Lot shall automatically upon taking title to a Lot, be a member of the Association and shall remain a member thereof until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership is to be held in accordance with the Articles and Bylaws of the Association.

Section 4.3 Transferred Membership: Membership in the Association may not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of the Lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such a Lot. A mortgagee does not have membership rights until he becomes an Owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void.

Section 4.4 Voting Class: The Association shall have one (1) class of voting membership. Members shall be all Owners. Members shall be entitled to one vote for each Lot owned. When more than one person holds an ownership interest in any Lot all such persons shall be Members; provided, however, that with respect to any matter requiring the vote or consent of Members, no more than one vote shall be cast with respect to any Lot. The vote for such Lot shall be exercised as the Members holding an interest in such Lot among themselves determine. In the event of a disagreement, the decision of Members holding a majority of interests in such Lot shall govern. In the event two or more persons have equal interest in a Lot, the vote shall be determined by a coin flip. Any action by the Association which is subject to the approval of Members shall require the vote or written assent of fifty-one percent (51%) of the total voting power of the Association, unless otherwise specified.

Section 4.5 Voting Procedures and Meetings: Voting procedures and the notice, quorum requirements and location of meetings of the Association shall be as provided for in the Bylaws.

Section 4.6 Board of Directors: The Board shall undertake all duties and responsibilities of the Association and the management and conduct of the affairs thereof, except as expressly is reserved herein to a vote of the Members. The Board of the Association consists of a minimum of Three (3) Directors and may be elected by secret written ballot at the regular annual meeting of the Association members. The number of Directors may be changed by amendment of the Bylaws.

ARTICLE V: DUTIES AND POWERS OF THE ASSOCIATION

Section 5.1 Duties: In addition to the duties enumerated in its Bylaws or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

A. Common Area: The Association shall replace, repair and maintain any Common Area, including any improvements, utilities and facilities located thereon in accordance with the ordinances of San Benito County.

B. Landscaping and Fencing on Certain Lots: Lots 1 through 7, inclusive, and 68 through 75, inclusive, as described on the Maps, are located adjacent to Fairview Road, and Lots 11 through 14, inclusive, as described on the Maps, are located adjacent to Airline Highway. Regarding these Lots, adjacent to either one of said named public streets, Declarant has installed fencing along the portion of the Lot adjacent to such public street which has, between such fencing and street installed certain landscaping, together with sprinkler pipes and heads. Furthermore, in addition to such fencing and landscaping, there is additional installed landscaping at the entranceway to the Development, which landscaping is in the center island of the public street known as Cielo Vista Drive, which center island also has installed thereon certain signs designating the Development, together with electrical lighting. The Association shall plant, maintain, repair and replace, as necessary, the landscaping and improvements, including the fencing, on all the above described Lots and center island on Cielo Vista Drive, including but not limited to grass, shrubs, plants, trees, sprinkler pipes and heads, retaining barriers and plant supports, light standards and fixtures, and to pay all costs included therein, such as water and electrical costs. To carry out its responsibility, the Association shall have a right and easement for access over and across and for planting, repairing, replacing and maintaining of landscaping on that portion of Lots 1 through 7, inclusive, 11 through 14, inclusive, and 68 through 75 inclusive, where such fence and landscaping exist, and each Owner of such Lot shall accept title to his Lot subject to the aforesaid rights of the Association. The Lot Owner shall not landscape or plant within that portion of each Lot as designated above, without prior written approval of the Association in carrying out its obligations pursuant to this subsection, or any other duties or obligations contained in the Declaration or the Bylaws of the Association.

C. Landscaping on Easements: The Association shall plant, maintain, repair and replace, as necessary, landscaping improvements on easements granted to the Association, including but not limited to grass, shrubs, plants, trees, sprinkler pipes and heads, retaining barriers and plant supports. To carry out its responsibility, the Association shall have a right and easement for access over and across, and for planting, repairing, replacing and maintaining of landscaping on that portion of each Lot over which such easements run, and each Owner shall accept title to his Lot subject to the aforesaid rights of the Association. The Owner of a Lot shall not landscape or plant within that portion of each Lot as designated above without prior written approval of the Association in carrying out its obligations pursuant to this subsection or any other duties and obligations contained in this Declaration or the Bylaws of the Association.

D. Insurance: The Association shall purchase and maintain the following insurance policies.

i. A master blanket comprehensive liability bodily injury and property damage policy insuring the interests of the Board and the Owners against public liability as a result of their ownership of the Common Area with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence (such limits and coverage shall be reviewed at least annually by the Board and increased at its discretion). Such policy shall be maintained with respect to the Common Area and the structures, if any, owned in common by the Owners. Such policy shall provide for a cross-liability endorsement wherein the rights of the named insured under the policy or policies shall not be prejudiced in respects to action against another named insured. Such policy or policies shall also contain a provision requiring the insurer to defend any suit against any insured, even if the allegations are fraudulent, but authorizing the insurer to make such investigation and settlement of any claim or suit within the policy limits as it deems expedient. Such liability insurance shall not cover the personal bodily injury and property damage exposure of the individual Owner within his Lot or in any other Lot in the Development or upon any Common Area resulting from the negligence of the Owner. Obtaining such insurance coverage by each Owner is optional.

ii. A policy of insurance covering all buildings, structures, furnishings, equipment and personal property owned in common by the Owners, if any, or by the Association for the interests of the Owners, and all the Owners and mortgagees, as their interest may appear in any amount that shall be at least equal to one hundred percent (100%) of the full insurable replacement value of all of them against the perils covered by California Standard Fire Policy, Extended Coverage Endorsement (or its equivalent). Such policy shall name as insureds Declarant, the Association all Owners and mortgagees to the extent of their insurable interests, if any; first mortgagees of residences shall be entitled to ten (10) days' prior notice of cancellation of such policies. Such insurance shall not cover personal household contents.

iii. Worker's Compensation Insurance shall always be carried as required by law with respect to the employees, if any, of the Association.

iv. A fidelity bond covering loss or theft of funds, naming the Manager and such other persons as may be designated by Declarant as principals and the Owners as obligees in an amount equal to at least 1/2 of the estimated cash requirement of the Association for the succeeding year.

E. Insurance-Owners: No Owner shall separately insure any of the improvements to the Common Area against loss by fire or other casualty covered by the insurance maintained by the Board, pursuant to the above. Should any Owner violate this provision, any diminution of insurance proceeds resulting from the existence of such separately carried insurance shall be chargeable to the Owner and may be charged by the Board against such Lot. Notwithstanding the foregoing, the

Owner may carry separate insurance against loss by fire and other casualty to one's residence and its contents.

F. Insurance-Equivalents: Should the Board, despite its reasonable efforts to do so, be unable to obtain insurance coverage meeting all the specifications set forth above, it shall observe such specifications as closely as possible, and where forms of coverage or insuring agreement specified above are unavailable, the Board shall substitute available forms of coverage and insuring agreements which in its judgment are the nearest equivalent to those specified.

G. Insurance-Proceeds: Proceeds of all insurance policies owned by the Association, held in a separate account and distributed to the Association and the Owners and their mortgagees subject to the provisions of these Restrictions, as their interest may appear; provided, however, whenever repair or reconstruction is required, the proceeds of any insurance received by the Association because of any loss shall be applied to such repair or reconstruction. Upon the vote or written assent of a majority of the voting power of the Association residing in Members, the Board shall levy a special assessment against all Owners to make up for any deficiency in making necessary repairs or reconstruction.

H. Insurance-Attorney Powers: Each Owner shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the Master Policy. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefore, to collect proceeds and to distribute mortgagees (subject to the provisions of these Restrictions) as their interests may appear, to execute releases of liability and to execute documents and to do all things on behalf of the Owners as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any residence nor the liability of any Owner for occurrences therein not caused by or connected with the Association's operation, maintenance, or use of the Common Area.

I. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the Common Area, and charge the cost thereof to the Member or Members responsible for the existence of said lien. Prior to any Board decision to discharge a lien, the Owner shall be given written notice and an opportunity for a hearing before the Board in order to present any defenses which may exist.

J. Assessments: The Association shall fix, levy, collect and enforce assessments as set forth in Article VI hereof.

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

L. Enforcement: The Association shall enforce this Declaration, the Bylaws, and the Articles of Incorporation.

M. Budget and Annual Report: Regardless of the number of Members or the amount of assets of the Association, the Board shall prepare and maintain books, financial statements, etc., in accordance with the provisions of the Bylaws.

Section 5.2 Powers: In addition to the powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

A. Easements: The Association shall have authority to grant easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Areas and the Lots.

B. Manager: The Association shall have the authority to employ a manager or other persons and to hire independent contractors or employees to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a firm or person appointed as a manager or managing agent, or any contract providing for services by the developer, sponsor or builder, shall not exceed a one year term, shall provide for termination by either party without cause on ninety (90) days or less written notice, and shall provide for the right of the Association to terminate the same for cause on thirty (30) days' written notice.

C. Association Rules: The Board may, from time to time, and subject to the provisions of this Declaration, adopt such rules as the Board may deem necessary for the management of this Development in accordance with the provisions of the Bylaws. A copy of the rules so adopted shall be furnished to each Owner, and each Owner, his family, guests, employees, invitees, licensees and tenants shall comply with such rules.

D. Enforcement of Rules and Restrictions:

i. The Board shall have the power and duty to enforce the provisions of this Declaration, the Bylaws and the rules. In the event of a breach of any of the restrictions contained in this Declaration or of any rules by an Owner, his family, guests, employees, invitees, licensees or tenants, the Board may enforce the obligations of each Owner to obey such rules or restrictions in any manner provided by law or in equity, including but not limited to appropriate legal action. Homeowners must be in good standing to have voting rights, otherwise suspension of the Owner's voting right and right to use the common facilities of the Development may be invoked. In addition to the other remedies herein set forth, the Board, by majority vote, may levy a fine against such Owner, after appropriate notice and hearing as herein provided in an amount of Fifty Dollars (\$50.00) for the first offense, One Hundred Dollars (\$100.00) for the second offense, Two Hundred Fifty Dollars (\$250.00) for the third offense, and in increments of One Hundred Dollars more than the previous offense for each such violation of those thereafter. The right to levy fines, hold disciplinary hearings or otherwise impose discipline on Members is vested solely in the

Board and may not be delegated to any Director, Officer, or Manager, or other employees of the Board or Declarant.

ii. Prior to making any decision that a breach has occurred or to impose any penalty provided herein for breach of any rules enacted hereunder or restrictions contained in this declaration, the Board shall send written notice to the Lot Owner specifying the nature of the infraction and provide an opportunity to the Owner for a hearing before the Board regarding such infraction and the penalty to be imposed. In the event that the Board determines that an infraction has occurred and that a penalty shall be imposed, after a reasonable opportunity for a hearing has been provided, the determination of the Board shall be final.

iii. Notwithstanding anything to the contrary in this Declaration, neither the Board nor the Association of members shall have the power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of one's individually owned Lot, including access thereto over and across the Common Area, because of such Owner's failure to comply with the provisions of this Declaration or of the Bylaws or any rules adopted by the Association except when such loss or forfeiture is the result of a judgment of a court, a decision pursuant to arbitration or on account of a foreclosure, or under the power of sale granted herein for failure of the Owner to pay the assessments levied pursuant to the provisions of this Declaration. In the event legal action is instituted by the Board pursuant hereto, any judgment rendered in any such action shall include costs of collection, court costs and reasonable attorneys' fees to the prevailing party.

a. A monetary charge imposed by the Association as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Area and facilities caused by a Member or the Member's guest or tenant may become a lien against the Member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents. It is the intent of the Legislature not to contravene Section 2792.26 of Title 10 of the California Code of Regulations, as that section appeared on January 1, 1996, for associations of subdivisions that are being sold under authority of a subdivision public report, pursuant to Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code.

b. A monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the governing documents, except for the late payments, may not be characterized nor treated in the governing documents as an assessment that may become a lien against the Member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c. California Civil Code § 5725

E. Acquisition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association. However, except with the vote or written assent of a majority of the voting

power of the Association residing in Members, the Board is prohibited from (1) incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year and (2) selling during any fiscal year Property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

F. Loans: The Association shall have the power to borrow money and, with the assent (by vote or written consent) of sixty percent (60%) of the Members, to mortgage, pledge, deed in trust, or hypothecate any or all its real or personal property as security for money borrowed or debts incurred.

G. Dedication: The Association shall have the power to dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument has been signed by sixty percent (60%) of the Members, other than Declarant agreeing to such dedication, sale or transfer.

H. Contracts: The Association shall have the power to contract for goods and/or services for the Common Area(s), for the common facilities, or interests of the Owners or for the Association, subject to limitations contained in the Bylaws for the corporation and this Declaration of Restrictions.

I. Delegation: The Association shall have the power to delegate its authority and powers to committees, officers or employees of the Association. However, the authority to levy fines, hold hearings, impose discipline, make capital expenditures, file suit on behalf of the Association, record a claim of lien or institute foreclosure proceedings for failure to pay assessments, may not be delegated to an officer, employee or committee.

J. Power of Attorney: Each Owner, for himself, his successors and assigns, shall be deemed upon purchasing his Lot to have appointed the officers of the Association, or any of them, as his true and lawful attorney, in his name, place and stead, to prosecute, settle and release any claims arising out of the Owners' acquisition or joint ownership of the Common Areas of the Development. Such power shall be utilized only upon express authorization of the Board given by resolution adopted by the Board at a meeting for which all Members are given advance written notice specifying the nature of the proposed action for which the power of attorney is to be utilized.

ARTICLE VI: ASSESSMENTS

Section 6.1. Covenants for Maintenance Assessments:

A. Each Owner of any Lot by acceptance of a deed is deemed to covenant and agree, to pay to the Association the assessments levied pursuant to this Article. Assessments shall be levied according to the ratio of the number of Lots subject to assessment. Each Owner thereby vests in the Association the right to bring all actions for the collection of such charges and for the enforcement of the lien created hereby. Such right remains with the Association and such obligations run with the land so that each successive Owner or Owners of record of a Lot in the Development will become liable to pay all assessments which become a lien during the time they are the record owner of any in the Development.

B. Each assessment levied by the Association under this Article constitutes a separate assessment. Each assessment, together with interest thereon, costs of collection and reasonable attorneys' fees will be a charge on the Lot and be a continuing lien upon the Lot against which each such assessment is made. The Association, as the agent of all Lot Owners, has a separate lien, and a separate lien with power of sale is hereby created, upon each Lot against which an assessment is made to secure the payment of any assessments under this Article. Each such lien for any month's charge will also secure interest thereon, if the same is not paid when due, and costs of suit and reasonable attorneys' fees to be fixed by the court if action or suit is brought to collect such charge. The priority of all such liens shall be in inverse order so that upon foreclosure of the lien for a month's charge, any foreclosure sale pursuant thereto will be made subject to all liens securing the respective monthly charge on such Lot for succeeding months.

C. Each assessment, together with interest, attorneys' fees and costs of collection, shall also be a separate, distinct and personal obligation of the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments will not pass to a Lot Owner's successor in title unless expressly assumed by such successor, but the lien for such delinquent assessment shall remain and, if unpaid by such successive Lot Owner, may be foreclosed as provided in this Declaration. After a record owner transfers record title to his Lot, he will not be liable for any charge thereafter assessed against such Lot. A contract seller of any Lot will continue to be liable for all such charges until a conveyance by him of the Lot subject to the assessment is recorded in the Office of the San Benito County Recorder.

D. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members of the Association, and to improve, replace, repair, operate, and maintain the Common Area, and the improvements to personal Property in the Common Area, and the landscaping that are owned and maintained by the Association, to provide funds necessary for the performance of the duties of the Association, as set forth in this

Declaration, and to further any other purpose that is for the common benefit of the Owners in their use and enjoyment of the property.

Section 6.2. Regular Annual Assessments:

A. The Board shall establish regular annual assessments for operation and maintenance of the Development by the procedures established in this section. The assessments shall be due and payable per the Association's published collection policy. The voting rights attributable to a Lot shall not be vested until an assessment has been made against that Lot. The assessments for annexed Lots shall commence on the first day of the first month following the annexation of said Lot. Regular assessments, when necessary, shall be levied in accordance with the final budget(s) approved by the Board of Directors.

B. Not more than ninety (90) days nor less than sixty (60) days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the regular annual assessment for the forthcoming fiscal year. At such meeting the Board shall review the preliminary pro forma operating budget prepared in accordance with this Declaration, any written comments received from Members and Mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate, the Board, subject to the restrictions described in this provision and without the requirements for a vote of the Owners, shall establish the regular assessment for the forthcoming fiscal year. The Board may not establish a regular assessment for any fiscal year that is more than ten percent (10%) above the regular assessment for the Association's preceding fiscal year without the approval by vote or written consent of the Owners holding fifty-one percent (51%) of the voting rights of all the Owners. Unless the Association is exempt from federal or state income taxes, including without limitation an exemption under Internal Revenue Code §528, and Revenue & Taxation Code §23701(t), all reserve funds to the extent possible, shall be designated and accounted for as capital contributions to the Association, and the Board shall take such steps as may be reasonably necessary under federal and state tax laws to prevent the reserve funds from being taxed as income of the Association, including, if necessary, maintaining the reserve funds in segregated accounts and not commingling the funds with general operating funds.

Notwithstanding any other provision in this Declaration to the contrary, the Board may not (i) establish a regular assessment for any fiscal year more than ten percent (10%) above the regular assessment for the Association's preceding fiscal year, or (ii) establish special assessments which in the pre aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, without a majority vote of approval by the Owners at a duly held meeting of the Members of the Association. The foregoing restrictions do not apply to any assessment increase that has been established (i) to maintain or repair the Common Area or any other Area that the Association is obligated to maintain or repair, or (ii) to address emergency situations. Costs for maintenance or repair of Common Areas or other Areas that the Association is obligated to

maintain, or repair shall be including, without limitation: Insurance premiums, utility bills, costs of maintaining or repairing structures or improvements, and costs to fund reserves.

Section 6.3. Special Assessments: Subject to the restrictions described in Section 6.4, the Board may levy a special assessment if the Board, in its discretion, determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including the maintenance of appropriate reserves, for a particular fiscal year for any reason, including but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements or otherwise. The Board shall determine the amount necessary to meet the estimated expenses, and if the amount is approved by a majority vote of the Board, it shall become a special assessment. The Board, in its discretion, may levy the entire assessment immediately or levy it in installments over a period it considers appropriate. Unless the Association is exempt from federal or state income taxes, including without limitation an exemption under Internal Revenue Code §528, and Revenue & Taxation Code §23701(t), the Board shall take such steps as may be reasonably necessary under federal and state income tax purposes, including, if necessary, depositing the funds in a segregated account, not commingling the funds with any other funds of the Association, and using the funds solely for the purpose for which they were levied.

After compliance with the due process requirements in the Bylaws, as codified in and the meet and confer provisions of the Board may impose a monetary penalty and levy a special assessment against a particular Lot to reimburse the Association for costs incurred in repairing damage to the Common Area, or any improvements or personal property located thereon, for which the Owner was allegedly responsible, or in bringing the Owner's Lot into compliance with this Declaration, the Articles, or Bylaws; provided, however, this special assessment may not become a lien against the Owner's Lot that is enforceable by a power of sale under Civil Code §§2924, 2924(b) and 2924(c). This restriction on enforcement is not applicable to late payment penalties for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees for delinquent assessments.

Notwithstanding any other provision in this Declaration to the contrary, the Board may not (i) establish a regular assessment for any fiscal year more than ten percent (10%) above the regular assessment for the Association's preceding fiscal year, or (ii) establish special assessments which in the pre-aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, without a majority vote of approval by the Owners at a duly held meeting of the Members of the Association. The foregoing restrictions do not apply to any assessment increase that has been established (i) to maintain or repair the Common Area or any other Area that the Association is obligated to maintain or repair, or (2) to address emergency situations. Costs for maintenance or repair of Common Areas or other Areas that the Association is obligated to maintain, or repair shall include, without limitation: Insurance premiums, utility bills, costs of maintaining or repairing structures or improvements, and costs to fund reserves.

Section 6.4. Provision Restricting Amount of Special Assessments: The Board may not levy any special assessments that either by itself or in the aggregate with other special assessments levied for that fiscal year would be in excess of five percent (5%) of the budgeted gross expenses of the Association for the

fiscal year without the approval by vote or written consent of the Owners holding fifty-one percent (51%) of the voting rights of all Owners. The foregoing restriction shall not apply to an assessment levied against a particular Lot to reimburse the Association for costs incurred in bringing the Owner of the Lot into compliance with this Declaration, the Articles, Bylaws or Association Rules.

Section 6.5. Non-Waiver of Assessments: The omission by the Board, before the expiration of any year, to fix the assessments for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Lot Owner from the obligations to pay the assessments, or any installment thereof, for that or any subsequent year. In the instance of such omission, the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of the Lot or any attempt to renounce rights in the Common Area.

Section 6.6. Enforcement:

A. Each Owner of a Lot, upon becoming such owner, shall be deemed to covenant and agree to pay to the Association every assessment provided for in this Declaration and shall be deemed to agree to the enforcement of all such assessments in the manner specified herein. Any imposition of a late charge levied by the Association for the delinquent payment of regular and special assessments to defray expenses and "enforcement" assessments or penalties imposed upon an Owner for failure to comply with this Declaration, the Bylaws, Articles or Rules shall be subject to the provisions of the California Civil Code §5850-5895. In the event an attorney is employed for collection of any assessment or to enforce compliance with the terms and conditions of this Declaration, each Lot Owner agrees to pay reasonable attorneys' fees and other costs thereby incurred, in addition to any other amounts due or any other relief or remedy to which the Association is entitled. Any assessment not paid when due will be deemed to be delinquent. Any assessment not paid within thirty (30) days after the date on which it becomes due shall thereafter earn interest from the date of delinquency at the rate of one and one-half percent (1-1/2%) per month on so much of the outstanding balance as does not exceed One Thousand Dollars (\$1,000.00), one percent (1%) per month on the excess over One Thousand Dollars (\$1,000.00) of the outstanding balance, and if the late charge so computed is less than Ten Dollars (\$10.00) for any month, the charge shall be Ten Dollars (\$10.00).

B. In addition to any other remedies herein or by law provided, the Association, or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration, and each of them, in any manner provided by law or in equity, by either or both of the following procedures.

i. Enforcement by Suit: The Association may commence and maintain a suit at law against any Lot Owner or Owners personally obligated to pay assessments for such delinquent assessments and such suit will be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency,

together with interest thereon, costs of collection, court costs and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Lot Owner. Suit to recover judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien provided for in the following subparagraph. The Association may not recover more than once in connection with a single delinquent assessment.

ii. Enforcement by Lien: There is a present lien, with power of sale, on each Lot to secure payment to the Association of any and all assessments levied against such Lot pursuant to this Declaration, together with interest thereon, and all costs of collection which may be paid or incurred by the Association, including reasonable attorney's fees. No action shall be brought to foreclose the lien securing an unpaid assessment until a Notice of Assessment Due signed by the Board or its designated representative, or by any Lot Owner if the Board fails or refuses to act, has been delivered to the Owner of the Lot subject to such assessment, and a copy of such notice recorded in the Office of the Recorder of San Benito County. Said notice shall state the amount of the assessment, together with the interest, costs and reasonable attorneys' fees, a description of the Lot against which the assessment has been made, and the name or names of the record Owner or Owners thereof. After the expiration of thirty (30) days from the date such Notice of Assessment Due has been recorded, an action may be commenced in the name of the Association to foreclose the lien, or such action may be commenced by any Owner if the Association fails to act. Upon the declaration of an assessment and the recording of notice thereof, the Association may, at its option, declare the entire balance of all sums then due from the Owner due and payable, which total sum may then be included in any suit, action or proceeding brought to collect said sum, including all costs, charges and attorneys' fees. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created hereunder, whether judicially, by power of sale or otherwise, until the expiration of ten (10) days after a copy of said Notice of Assessment Due, showing the date of recordation thereof, has been mailed, emailed, or sent to the Owner of the Lot which is described in such notice.

TO THE EXTENT OF ANY LIENS CREATED PURSUANT TO THE DECLARATION, WHETHER SUCH LIENS ARE NOW IN EXISTENCE OR ARE CREATED AT ANY TIME IN THE FUTURE, THE BENEFIT OF ANY HOMESTEAD OR EXEMPTION LAWS OF THE STATE OF CALIFORNIA NOW IN EFFECT, OR IN EFFECT IN THE FUTURE, ARE WAIVED BY THE OWNERS OF EACH LOT.

Section 6.7. Power of Foreclosure and Sale:

A. Each of the Lot Owners does hereby appoint the Association, as trustee, to enforce any lien created pursuant to this Declaration and to foreclose such lien by means of any available current California statute, as such statutes may be revised, amended or altered from time to time, or by judicial foreclosure, and does further grant the Association, as such trustee, the power to sell the Lot of any such defaulting Owner, or any part thereof, for lawful money of the United States, to the highest bidder to satisfy such lien.

B. The lien provided for herein shall be in favor of the Association, shall be for the benefit of all Lot Owners, and shall secure payment of all sums set forth in the Notice of Assessment, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said Notice of Assessment. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law.

Section 6.8. Transfer of Lot by Sale or Foreclosure:

A. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer (except for assessment liens recorded prior to the mortgage). No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

B. Where the mortgagee of a purchase money first mortgage of record or other purchaser of a Lot obtains title to the same as a result of foreclosure of any such first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Lot by such acquirer (except for assessment liens recorded prior to the mortgage). No amendment of the preceding sentence may be made without the consent of institutional lenders in accordance with the provisions of Article II of this Declaration. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Lots including such acquirer, his successors and assigns.

C. In a voluntary conveyance of a Lot the Grantee and the Grantor shall be jointly and severally liable to the Association for all unpaid assessments against the Lot for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid assessments against the grantor due the Association and such grantee shall not be liable for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth

in the statement; provided, however, the Grantee shall be liable for any such assessment becoming due after the date of any such statement.

Section 6.9. Release of Lien: Upon payment of the delinquent assessment or the satisfaction thereof, the Association shall record, in the same manner as the Notice of Assessment, a further certificate stating the satisfaction and release of the lien.

Section 6.10. Status of Assessment Lien: Within ten (10) days of the sending or delivery of a written request by any Owner, the Association shall provide the Owner with a written statement containing the following information:

- A. Whether, to the knowledge of the Association, the Owner or the Owner's Lot is in violation of any of the provisions of this Declaration, the Articles, Bylaws or Association rules;
- B. The amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year the request is received; and
- C. The amount of any assessments levied against the Owner's Lot that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that, as of the date of the statement are, or may be made a lien against the Owner's Lot as provided in this Declaration, the Articles, Bylaws or Association rules;

A reasonable fee, not to exceed three hundred fifty dollars (\$350.00) may be charged for the preparation of such statement.

Section 6.11. Subordination of Lien to Encumbrance:

- A. Notwithstanding any provision to the contrary in this Declaration, the lien for regular or special assessments created by this Declaration shall be subject and subordinate to and shall not affect the rights of the holder of any recorded first mortgage or first deed of trust upon such Lot made in good faith and for value. In the event any lien imposed under the provisions hereof is destroyed by reason of the foreclosure of any mortgagee or deed of trust on the Lot subject to such lien, there shall be a lien on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, charged to such Lot after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the same manner as provided herein.
- B. For purposes of this section, a mortgage or deed of trust may be given in good faith or for value even though the mortgagee or the beneficiary of such mortgage or deed of trust has constructive or actual knowledge of the assessment lien provisions of this Declaration.
- C. No amendment of this section shall affect the rights of the holder of any mortgage or deed of trust recorded prior to recordation of such amendment unless the mortgagee or beneficiary joins in the execution of such amendment.

Section 6.12. Association Funds:

A. The assessments collected by the Association shall be held in trust by the Association for and on behalf of each Lot Owner, and shall be used solely for the operation, care and maintenance of the Development as provided in this Declaration. The Board shall allocate a portion of said funds as collected for the annual maintenance and operation of the Development as specified in the annual budget and the Board shall allocate a portion of said funds as collected as reserves for contingencies, replacement and deferred maintenance of the capital improvements of the Development as specified in the annual budget. Said funds shall be deposited, as allocated, into the appropriate bank accounts and said accounts shall be separately maintained by the Association. Upon sale or transfer of any Lot by any Owner, the Owner's interest in the trust funds shall be deemed automatically transferred to the successor or transferee of such Owner.

B. In the event that the Board retains a professional management service, the Board may delegate the authority to deposit or withdraw funds to responsible representatives of the professional management agent so retained. The professional management agent may additionally be authorized to establish a common trustee account for deposit of assessments as collected. Any funds deposited in such a common trustee account shall be allocated as previously specified herein.

Section 6.13. Books of Account: The Board shall maintain full, complete and correct books of account of the operation of the Development and vouchers supporting expenditures. Any Lot Owner, or the duly authorized representative thereof, may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Association.

ARTICLE VII: ARCHITECTURAL CONTROL

Section 7.1. Provision for Architectural Approvals: Commencement of any exterior projects, which may alter the external appearance of the Property, without submitting a completed application to the Architectural Review Committee and without formal approval, is not permitted. No building, fence, wall, or other structure shall be commenced, erected, or maintained on the Property; nor shall any exterior addition or change or alteration in any such structures, including paint color (earth tone in nature), of the Property, including solar, voltaic or heating systems; pools, spas, ponds, fountains; landscaping that alters existing design, fence, stonework or concrete work; related mechanical, plumbing, or electrical facilities; roofing materials change or replacement, awnings, patio covers, and antennae, be erected or modified until the plans and specifications showing the nature, kind, shape, materials, and location of the same have been submitted to and approved in writing as to be in compliance and of the same nature of external design and location in relation to surrounding structures and topography by the Architectural Review Committee provided for in 7.2 below. Whenever in this Declaration the prior consent or approval of the Association is required as a condition to any action by an Owner affecting any alterations, changes, additions or modifications, the Association through the Board may delegate to the Architectural Review Committee the right and duty to grant or withhold such consent or approval. In the event the Architectural Review Committee or its designated representatives fails to approve or disapprove such design and location within forty-five (45) days after the plans and specifications have been submitted, approval will not be required, and this provision will be deemed to have been complied with in full.

All completed applications must include; letter detailing scope of project; plans depicting project with dimensioned layout of project; materials to be used; time duration of project; and signatures of (2) adjacent neighbors, verifying the project and the application drawings/scope have been explained and discussed. Neighbor approval is recommended, but not required prior to submittal to the Architectural Review Committee.

Expansion of existing driveways (impervious surfaces such as concrete, etc.) to accommodate access to rear or side yards will be reviewed on a case-by-case basis and need to follow the application process as stated above.

Commencement and/or completion of projects with non-approved alterations is not permitted. Lot Owners may be required to redo or remove non-approved projects within a specified period of time and incur the associated costs in addition to the assessment of fines for architectural standard violations.

Section 7.2. Appointment of Architectural Review Committee: The Board shall have the power to appoint all of the members of the Architectural Committee. Members appointed to the Architectural Review Committee by the Board shall be Members of the Association.

ARTICLE VIII: USE RESTRICTIONS

In addition to all the covenants contained herein, the use of the Property and each Lot therein is subject to the following:

Section 8.1. Lot Use: Residents shall be limited as follows:

- A. The exterior color of all construction on each Lot shall be an earth tone color.
- B. No Lot shall be occupied and used except for residential purposes by the Owners and their family members, tenants, and social guests, and no trade or business shall be conducted therein which constitutes a nuisance or results in a significant increase in traffic, noise or parking.
- C. No tent, shack, trailer, basement, garage, outbuilding, or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.
- D. Satellite antennas for radio or television are allowed, shall not exceed twenty (20) inches in diameter.
- E. All vehicles shall use the inbound and outbound gates as they were intended and at no time shall misuse them in any fashion to include, but not limited to damaging or pushing on them in any way, shape or form; going through them in the opposite direction in which they were intended; or going around the gates and using the sidewalk or rock bed for vehicle entry. All Owners and authorized guests are to enter the gates via the distributed means of access (card, key fob, or entrance keypad). Should additional access be required, please contact the Cielo Vista Board or gate manager.

Section 8.2. Nuisances: No noxious, hazardous, illegal, or offensive activities shall be carried on in any Lot or residence nor on any part of the Property or Common Areas, nor shall anything be done thereon which may violate a local, state or federal law, or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners in one's respective Lot, or which shall in any way increase the rate of insurance for the Development, or cause any insurance policy to be cancelled or to cause a refusal to renew a policy, or which will impair the structural integrity of any building.

Section 8.3. Vehicle Restrictions: No more than four (4) cars may be visible over night in the front of any Lot, within the Development. Any trailer, camper, mobile home, commercial vehicle, truck (other than standard size pickup truck), inoperable automobile, boat or similar equipment shall be permitted to remain on any Lot only if it is within the garage or in the back yard. Vehicles in the front of any home are only allowed to park on paved driveway; not allowed to be parked on dirt or lawn at any time. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles are unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property. No off-road unlicensed motor vehicles shall be operated upon the Property. An Owner shall be allowed to

maintain his own vehicles on his Lot, but no one else's. Vehicles are prohibited from parking on the street overnight, except with expressed permission of the Board. In the event that an Owner desires expressed permission, notice shall be given to the Board within 24 hours prior to the event, in writing or by email. Any vehicle parked overnight without expressed permission of the Board will be subject to a fine of Fifty Dollars (\$50.00) for the first offense, One Hundred Dollars (\$100.00) for the second offense, Two Hundred Fifty Dollars (\$250.00) for the third offense, and in increments of One Hundred Dollars more than the previous offense for each such violation of those thereafter.

Section 8.4. Signs: No signs shall be displayed to public view on any Lots or on any portion of the Property except such signs as are approved by the Board. "For Sale" or "For Rent" signs shall be allowed provided they do not exceed three (3) square feet in size. Political signs are allowed to be displayed prior to a state-wide election and must not exceed three (3) square feet in size. Signs must be removed within 72 hours following the intended election. Standard security signs are permitted.

Section 8.5. Animals:

A. No animals or birds of any kind shall be raised, bred, or kept in any Lot or on any portion of the Property, except that no more than three (3) cats, three (3) birds and/or three (3) dogs and other such ordinary household pets may be kept except for any commercial purposes, and provided they are kept under reasonable control always. No pet may be kept on the Property which results in a nuisance as prohibited in 8.2 above. No pets shall be allowed in the Common Area except as may be permitted by rules of the Board. No dog shall enter the Common Area except while on a leash which is held by a person capable of controlling it. Declarant or any Owner may cause any unleashed dog found within the Common Area to be removed to a pound or animal shelter under the jurisdiction of the City or County in which the Property is located. No dog whose barking disturbs other Owners shall be permitted to remain on the premises. Owners shall prevent their pets from soiling any portion of the Common Area.

B. Prior to any decision by the Board pursuant to this section that an Owner is responsible for the maintenance of a nuisance or any decision to remove a pet from the Development, the Owner shall be provided with written notice specifying the nature of the infraction and an opportunity for a hearing before the Board. The remedies for an alleged nuisance shall not include any measures which may be characterized as "private self-help action" and any Board action in connection with this section shall be in compliance with the provisions of Article V, Section 5.2E (Enforcement of Rules and Restrictions) of this Declaration.

Section 8.6. Garbage, Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept, to include piles in or around driveways, except in sanitary containers. Trash containers shall be stored behind fenced areas, except for planned street pick-up by garbage collection company.

Section 8.7. Radio and Television Antennas: No Owner may be permitted to construct and/or operate their own external radio and/or television antenna without the consent of the Board.

Section 8.8. Right to Lease: The Lots shall not be rented for transient or hotel purposes, which shall be defined as (1) rental for any period less than thirty (30) days, or (2) any rental if the occupants of the Lot are provided customary hotel service such as room service for food and beverage, maid service, or furnishing laundry and linen. Subject to the foregoing restrictions, the Owners of the Lot shall have the absolute right to lease same, provided that any lease shall be subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Articles and Bylaws.

Section 8.9. Clotheslines: No exterior clotheslines shall be erected or maintained and there shall be no outside laundering or drying of clothes, without the approval of the Board.

Section 8.10. Power Equipment: Power equipment for hobby shop and car maintenance purposes shall be permitted on the Property, provided that the Board may disallow such equipment if the Board determines that the effects of such equipment are to interfere with radio and television reception, or if there is any other similar type objection, such as noise, air pollution, dirt, grease, or fire hazard raised concerning such equipment.

Section 8.11. Liability of Owners for Damage to Common Areas: The Owner of each Lot shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such Owner or any occupant of his Lot, or guest, except for that portion of said damage, if any, fully covered by insurance. Liability of an Owner shall be established only after notice to the Owner and a hearing before the Board.

Section 8.12. Yard Maintenance: Yards (front, side and backyards) shall be maintained such that lawn is mowed on a regular basis. Shrubs, bushes and trees are trimmed to be kept neat and tidy, and do not impeded or obstruct Common Area walkways or streets. Diseased trees are to be removed, and all areas visible to other neighbors are kept free of weeds.

**ARTICLE IX: ENFORCEMENT OF COVENANTS, CONDITIONS & RESTRICTIONS
AND COLLECTION OF ASSESSMENTS AND PENALTIES-REQUIREMENTS FOR
FORMAL AND INFORMAL ALTERNATIVE DISPUTE RESOLUTION**

Section 9.1 Alternative Dispute Resolution: In accordance with the Davis-Stirling Act, Civil Code 5850-5985 the Association sets forth the following Alternative Dispute Resolution procedures.

A. "Alternative dispute resolution" means mediation, arbitration, conciliation, or other nonjudicial procedure that involves a neutral party in the decision-making process. The form of alternative dispute resolution chosen pursuant to this article may be binding or nonbinding, with the voluntary consent of the parties.

B. "Enforcement action" means a civil action or proceeding, other than a cross-complaint, for any of the following purposes:

- i. Enforcement of these Covenants, Conditions & Restrictions or any rules, regulation or policy.
- ii. Enforcement of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code).
- iii. Enforcement of the governing documents.

Section 9.2 Request for Resolution: In the cases of all disputes and controversies "A "Request for Resolution" is required before a lien may be recorded with the San Benito County Recorder, or the Association commences a legal action to recover assessments, fees and fines which are unpaid and past due and/or an action to enforce these Covenants Conditions & Restrictions in the San Benito County Superior Court.

Section 9.3 Resolution Procedure: Any party to a dispute may initiate the process required by Section 5930 by serving on all other parties to the dispute a Request for Resolution. The Request for Resolution shall include all of the following:

- A. A brief description of the dispute between the parties.
- B. A request for alternative dispute resolution.
- C. A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected.
- D. If the party on whom the request is served is the Member, a copy of this article.

E. Service of the Request for Resolution shall be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the request.

F. A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

Section 9.4 Alternative Procedures: Or as an alternative, either party to a dispute within the scope of this article may invoke the following procedure:

A. The party may request the other party to meet and confer to resolve the dispute. The request shall be in writing.

B. A Member of an Association may refuse a request to meet and confer. The Association shall not refuse a request to meet and confer.

C. The Board shall designate a Director to meet and confer.

D. The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute. The parties may be assisted by an attorney or another person at their own cost when conferring.

E. A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the Association.

Section 9.5. Judicial Enforcement: A written agreement reached under this section binds the parties and is judicially enforceable if it is signed by both parties and both of the following conditions are satisfied:

A. The agreement is not in conflict with law or the governing documents of the common interest development or Association.

B. The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.

C. A Member shall not be charged a fee to participate in the process.

Section 9.6 Filing Resolution: Submission of dispute to formal dispute resolution before filing enforcement action in superior court as limited in this section

A. An association or a member may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article.

- B. This section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not more than the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure.
- C. This section does not apply to a small claims action.
- D. Except as otherwise provided by law, this section does not apply to an assessment dispute.

ARTICLE X: DAMAGE, DESTRUCTION, OR CONDEMNATION OF COMMON AREA IMPROVEMENTS

Section 10.1. Damage and Destruction: In the event of damage or destruction of the Property of the Association, or any part thereof, it shall be the responsibility of the Association to repair or replace the same in substantial accordance with the original plans and specifications of the Development.

A. Insured Losses: If the damage or destruction to the Association Property is an insured loss, the loss shall be handled as follows:

i. Minor Casualties: If the insurance proceeds initially offered or paid by the insurer do not exceed Fifty Thousand Dollars (\$50,000.00) such insurance proceeds shall be paid to the Association in accordance with Article V, Section 5.1C of this Declaration. The Board shall then contract to repair or rebuild the damaged portions of the Association's Property in substantial accordance with the original plans and specifications of the Development, obtain bids in accordance with the following paragraphs, and the insurance funds held by the Association shall be used for such reconstruction.

ii. Major Casualties: If the insurance proceeds initially offered or paid by the insurer exceed Fifty Thousand Dollars (\$50,000.00), the following shall apply:

a. All insurance proceeds shall be paid to the Association and deposited in a newly-created account and held for the benefit of the Owner(s) of the relevant Lot, and their mortgagees as their respective interests may appear.

b. The Board shall obtain firm bids from two or more responsible contractors to rebuild the relevant portion of the Development in accordance with its condition prior to damage and destruction, modified at the direction of the Board to comply with the building codes and construction standards in effect at the time of the rebuilding. To be considered, any contractor's bid shall include the premium payable for a performance, labor and material payment bond from a reputable bonding company.

c. The Board shall then call a meeting of all affected Owners to review all such submitted bids. A simple majority vote of the affected Owners will be required to accept or reject any bid. The failure by such Owners to either accept a bid or reject all bids shall authorize the Board to accept a non-rejected bid it considers most favorable, or seek further bids.

B. Uninsured or Insufficiently Insured Losses: If any damage or destruction is uninsured or if the insurance proceeds are insufficient to cover the cost of repairs or replacement of the Property damaged or destroyed, the Board will make a Special Assessment, in accordance with the provisions outlined in Article VI, Section 6.3 of this Declaration, to cover such cost. Such Special

Assessment is in addition to any other regular assessments and is subject to the rules herein relating to Special Assessments. Any Special Assessment for the rebuilding or major repair work of individual residences will be levied upon the basis of the ratio of the square footage of the Lot residence to be assessed to the total square footage of the residences of all Lots to be assessed.

C. Full Insurance Settlement: Notwithstanding any provision contained in this Article X, if the insurance carrier offers the full amount required to repay and restore all of the damage, then the Board shall contract to repair or rebuild the damaged portions of all affected residences in the manner provided in Article X, Section 10.1A for a minor casualty.

D. Emergency Repairs: Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty as it may deem necessary or desirable under the circumstances, and the Board may charge the operating accounts for the cost thereof. In the event of a casualty, there is a substantial possibility that immediate emergency repairs will be required to eliminate defective or dangerous conditions and to comply with applicable laws, ordinances and regulations, pending settlement of insurance claims and prior to procuring bids for performance of restoration work.

E. Decision Not to Rebuild: The decision not to rebuild will require the affirmative vote or written assent of not less than seventy-five percent (75%) of the Owners. A vote in accordance with this Declaration, Article IV, Section 4.4 shall be required for the decision not to rebuild. In the event the membership elects not to rebuild, the proceeds received by the Association as a result of such decision shall be distributed by the Association among the Owners of Lots and their respective mortgagees according to the respective fair market values of the Lots at the time of destruction. The fair market value shall be determined by taking the average of two independent appraisals as commissioned by the Board.

Section 10.2. Distribution of Funds in Event of Condemnation: A condemnation award affecting one or more Lots which is not apportioned among the Owners by a court judgment or by agreement between the condemning authority and each of the affected Owners, shall be distributed among the Owners of Lots and their respective mortgagees according to the respective fair market values of the Lots at the time of destruction. The fair market value shall be determined by taking the average of two independent appraisals as commissioned by the Association.

ARTICLE XI: GENERAL PROVISIONS

Section 11.1. Invalidity of Any Provision: Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this Development is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

Section 11.2. Term: The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Lot subject to this Declaration and his legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners of the Lots has been recorded within the year preceding the beginning of any successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part or to terminate the same.

Section 11.3. Amendments: These Covenants, Conditions & Restrictions may be amended by a vote of a majority (more than 50%) of the Owners or as provided by Civil Code Sec. 4275.

Section 11.4 Notices: Notices shall be in writing or via email, except as required by law.

A. If a provision of this act requires that a document be delivered to an association, the document shall be delivered to the person designated in the annual policy statement, prepared pursuant to Section 5310, to receive documents on behalf of the association. If no person has been designated to receive documents, the document shall be delivered to the president or secretary of the association.

B. Any document delivered pursuant to these Covenants, Conditions section may be delivered by any of the following methods:

i. By email, facsimile, or other electronic means, if the association has assented to that method of delivery.

ii. By personal delivery, if the association has assented to that method of delivery. If the association accepts a document by personal delivery it shall provide a written receipt acknowledging delivery of the document.

iii. By first-class mail, postage prepaid, registered or certified mail, express mail United States Postal Service

C. Each remedy provided by this Declaration is cumulative and not exclusive; and

D. The failure to enforce the provisions of any covenant, condition or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provision here.

Section 11.5. References to Code Sections: Wherever the California law is referred to specifically in this Declaration, that reference shall mean that code section as it shall be amended from time to time, and any successor code sections. If the code section shall be repealed without a successor section, then the section shall cease to have any applicability to this Declaration.

*****CERTIFICATION*****

WE CERTIFY this 1st day of October, 2018 that this Restated Declaration of Covenants, Covenants, Conditions and Restrictions has been duly approved and adopted by the Association's membership.

[Signature]

President

[Signature]

Secretary

ACKNOWLEDGMENT

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

State of California
County of San Benito)

On October 1, 2018 before me, Ron Martin, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature [Signature] (Seal)

