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For Recorder's Use

FIRST AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SHADOWRIDGE OWNERS' ASSOCIATION

0057234.WP

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EXHIBIT "B" - ASSOCIATION MAINTAINED PRIVATE PROPERTY

EXHIBIT "C" - ASSOCIATION MAINTAINED PUBLIC PROPERTY

FIRST AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SHADOWRIDGE OWNERS' ASSOCIATION

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made on the day and year hereinafter written, by SHADOWRIDGE OWNERS' ASSOCIATION, a California non-profit corporation ("Declarant").

RECITALS

A. Declarant is a corporation whose Members are the Owners of all the Lots within that certain real property in the City of Vista, County of San Diego, State of California, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter "Property").

B. Shadowridge possesses great charm and natural beauty which Declarant intends to preserve through the use of a coordinated master plan of development and the terms of this Restated Declaration. The master plan provides for sensitive land planning, harmonious and appealing landscaping, structures and improvements, and the establishment of individual maintenance associations for portions of the Property.

C. Each property owner in Shadowridge will be motivated to preserve these qualities through community cooperation and by enforcing not only the letter but also the spirit of this Restated Declaration. The Restated Declaration is designed to complement local government and municipal regulations.

D. For the efficient management of Shadowridge and the preservation of its value, desirability and attractiveness, a corporation was formed. It was delegated and assigned the power and duty of managing certain aspects of the development of Shadowridge; maintaining and administering the Common Areas; administering and enforcing of the Restated Declaration; collecting and disbursing funds pursuant to the provisions regarding assessments and charges hereinafter created and referred to; and performing such other acts as shall benefit the Shadowridge Community.

E. The Property was developed as a Planned Development, as defined in Section 1351(k) of the California Civil Code. The Owners of each Lot shall have a separate interest in a Lot, an appurtenant membership in the Association, and a nonexclusive

easement over the Common Areas, subject to any exclusive easements and other separate ownership interests therein, and this Restated Declaration.

F. The Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the following documents:

1. The Master Declaration of Restrictions recorded on April 17, 1981 as File/Page No. 81-118482;

2. The First Amendment to Declaration of Restrictions recorded on January 6, 1982 as File/Page No. 82-002533; and,

3. The First Amendment to Declaration of Restrictions recorded June 30, 1988 as File/Page No. 88-317161;

all in the Official Records of the County Recorder of San Diego County, hereinafter referred to collectively as "*Declaration*," unless the context clearly indicates otherwise.

G. Declarant now desires to amend the Declaration and replace it in its entirety with this Restated Declaration. Declarant further desires that, upon recordation of this Restated Declaration, the Property shall be subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges contained herein.

H. The original Master Declaration, at Section 13.3, provides that it may be amended by the affirmative vote or written consent of fifty-five percent (55%) of each class of membership of the Association and fifty-five percent (55%) of the total voting power of the Association. The affirmative vote or written consent of at least the required percentage of Association Members has been obtained.

I. Declarant hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Restated Declaration, and as may be amended from time to time, all of which are declared and agreed to be in furtherance of a common plan and scheme established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Restated Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs,

executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Lot or other property within Shadowridge.

ARTICLE 1 - DEFINITIONS

1.1 *"Apartment Area"* means the property described as such on Exhibit "A", if any, and any property so designated in a Declaration of Annexation. The Apartment Area shall be subject to this Declaration as provided in the Article hereof entitled "Apartment Area and Commercial Area Ownership".

1.2 *"Apartment Area Owner"* means the owner of any portion of the Apartment Area.

1.3 *"Architectural Control Committee"* means the committee(s) created pursuant to Article 7.

1.4 *"Articles"* means the Articles of Incorporation of Shadowridge Owners' Association, filed in the Office of the Secretary of State of the State of California, as amended from time to time.

1.5 *"Association"* means Shadowridge Owners' Association, a California non-profit mutual benefit corporation created for the purpose of managing a common interest development.

1.6 *"Board"* means the Board of Directors of the Association.

1.7 *"Buena"* means the Buena Sanitation District.

1.8 *"Bylaws"* means the Bylaws of the Association and any amendments thereto.

1.9 *"City"* means the City of Vista, a municipal corporation of the State of California.

1.10 *"Commercial Area"* means the Property described as such on Exhibit "A", if any, and any Property so designated in a Declaration of Annexation. For the purposes of this Declaration, the Commercial Area may include real property zoned as industrial. The Commercial Area shall be subject to the provisions of this Declaration entitled "Apartment Area and Commercial Area Ownership".

1.11 *"Commercial Buildings"* means any building erected in a Commercial Area.

1.12 *"Commercial Condominium Owner"* means a "Condominium Owner", as defined below, in a Commercial Area.

1.13 *"Common Areas"* means all real property and the improvements thereon, including, without limitation, any private storm drains, drainage courses, parkways, entries, median strips, greenbelts, landscaped area, private streets, private utilities, parks, open space and open space easements, trails, slopes, walls, signs, monuments and appurtenances owned, leased, or to be maintained, from time to time, by the Association for the common use and enjoyment of the Members.

1.14 *"Condominium"* and *"Condominium Owners"* mean, respectively, the estate and the Owner thereof of any condominium within the Property within any condominium project as defined by Section 1351(f) of the Civil Code of the State of California or any similar statute hereinafter enacted.

1.15 *"Condominium Plan"* means a plan recorded against the Property in compliance with California Civil Code Section 1351 or any similar statute hereinafter enacted.

1.16 *"Declarant"* means Shadowridge Owners' Association and its successors and assigns.

1.17 *"Drainage Courses"* means those areas designed for the conveyance of waters from more than one Lot and so identified on Exhibit "B" attached hereto and incorporated herein by this reference or on an appropriate Exhibit to a Declaration of Annexation.

1.18 *"Dwelling"* means a residential dwelling unit or units together with garages and other structures on the same Lot, and, in the case of a Condominium, all elements of a "Condominium Unit" conveyed to the Owner, as defined on the condominium plan recorded for said Condominium pursuant to the California Civil Code.

1.19 *"Governing Documents"* means this Restated Declaration and any other documents such as the Articles, Bylaws, or Rules and Regulations which govern the operation of the Association.

1.20 *"Improvements"* means structures, hedges, windbreaks, major plantings, major planted trees and shrubs and all other major landscaping of every kind. "Improvements" shall also mean any excavation, fill, ditch, diversion dam or other device which affects or alters the natural flow of surface water from, upon or across any Lot, or which affects or alters the flow of any natural or artificial stream, wash or drainage channel from, upon or across any Lot.

1.21 *"Institutional Mortgagee"* means a mortgagee which is a bank, a savings and loan association, a mortgage company or other entity chartered under Federal or state laws whose principal business is lending money on the security of real property, or any

insurance company or corporation, any Federal or state agency, or any other institution specified by the Board in a recorded instrument.

1.22 *"Lot"* means any parcel of real property on any recorded Subdivision Map pertaining to any portion of the Property. However, "Lot" shall not include real property owned or leased by the Association or any real property owned or leased by a Maintenance Association. "Lot" shall also mean any Condominium.

1.23 *"Maintenance Association"* (or "sub-association") means any incorporated or unincorporated association which is formed to facilitate the maintenance and operation of any portion of the Property which is owned by such Owners who are members of such association or which is owned by such association for the benefit of the Owners who are its members, or to enforce or administer any declaration of covenants, conditions and restrictions recorded by Declarant or by a Developer with consent of Declarant, other than those contained herein or in any amendments hereto, which may be applicable to a particular portion of the Property.

1.24 *"Manager"* means a person or corporation appointed as such pursuant to this Declaration.

1.25 *"Map"* means those Subdivision Maps referred to in Exhibit "A" and any subsequently recorded Subdivision Map and all amendments thereto, which cover the Property or a portion thereof.

1.26 *"Member"* means every person or entity entitled to membership in the Association as provided in this Restated Declaration.

1.27 *"Mortgage"* means a mortgage or deed of trust encumbering a Lot or any other portion of the Project. "First Mortgage" means a mortgage that has priority over all other mortgages encumbering the same Lot or other portions of the Project.

1.28 *"Mortgagee"* means a Person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a mortgage. "Institutional Mortgagee" means a mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA). "First Mortgagee" means a mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Lot or other portions of the Project. The term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.29 *"Mortgagor"* means a Person who mortgages his, her, or its property to another (i.e., the maker of a mortgage), and shall include the trustor of a deed of trust. The term "Trustor" shall be synonymous with the term "Mortgagor."

1.30 *"Neighborhood"* means an area of the Project containing one or more Lots, which is neither administered by a Maintenance Association nor encumbered by a declaration of covenants, conditions and restrictions other than this Restated Declaration.

1.31 *"Owner"* or *"Owners"* means the record holder or holders of fee-simple title to a Lot, including Declarant, or the vendee under an installment land sales contract, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. For the purposes of Article 5, unless the context requires otherwise, Owner shall include the family, invitees, licensees and lessees of any Owner, together with any other person or persons holding any possessory interest granted by such Owner in any Lot.

1.32 *"Person"* means a natural individual, a corporation, a partnership, a trustee or any other entity with the legal right to hold title to real property.

1.33 *"Project"* means the entire common interest development as described in Exhibit "A" herein, including all improvements thereon.

1.34 *"Property"* means the real property described in Exhibit "A" attached hereto.

1.35 *"Restated Declaration"* means this Amended and Restated Declaration of Restrictions and any amendments thereto.

1.36 *"Rules and Regulations"* means any Rules and Regulations of the Association regulating the use of the Lots, the Common Areas, the Project and any facilities located thereon adopted by the Board or any Committee.

1.37 *"Shadowridge"* means the real property subject to this Declaration, together with such other real property as may be from time to time annexed thereto pursuant to this Declaration.

1.38 *"Slopes"* means those slope areas to be maintained by the Association for the enjoyment of the Members, identified on Exhibit "B" or on a similar Exhibit to a Declaration of Annexation.

1.39 *"Structure"* means any thing or device including, by way of illustration and not limitation, any building or other living quarters, garage, driveways and parking areas; porches and covered

or uncovered patios; sheds, greenhouses or bathhouses; tennis courts; stables; fences and walls; poles and signs, antennas or other temporary or permanent improvement to a Lot.

1.40 *"Subdivision Map"* means (a) any final map or parcel map within the meaning of the provisions of Division 2 of Title 7 of the Government Code of the State of California, or (b) any final record of survey map within the meaning of the provisions of Section 8762, *et seq.*, of the Business and Professions Code of the State of California, as such provisions may from time to time be amended.

1.41 *"Visible From Neighboring Property"* means, with respect to any given object on any given Lot, that such object is or would be observable to a person six feet tall standing on the ground level of any part of an adjoining Lot, Common Area or public or private right-of-way.

1.42 *"V.I.D."* means the Vista Irrigation District.

ARTICLE 2 - THE PROPERTY

2.1 *Project Subject to Restated Declaration.* The entire Project shall be subject to this Restated Declaration upon recordation hereof.

2.2 *Partition of Common Area.* There shall be no subdivision or partition of any Lot or the Common Area, nor shall any owner seek any partition or subdivision thereof.

2.3 *Prohibition Against Severance of Elements.* Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Lot shall include all interests and appurtenances as shown in the original deed of conveyance. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's membership interest in the Association. Any transfer that attempts to sever those component interests shall be void.

2.4 *Easements Over Common Area.* Each Owner shall have a nonexclusive easement for use and enjoyment of the Common Area now or hereafter owned by the Association and for ingress, egress, and support over and through the Common Area. These easements shall be appurtenant to, and shall pass with the title to each Lot. Each of the easements reserved or granted herein shall be covenants running with the land for the use and benefit of the Owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the Project. Individual grant deeds to Lots may, but shall not be required to, set forth the easements specified in this Article.

2.5 *Drainage and Slope Easements.* The Owner of a Lot shall permit free access by Owners of adjacent or adjoining Lots, or the Association and its agents, to slopes or drainage ways located on his property, when such access is essential for the maintenance of permanent stabilization of said slopes, or maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slopes or drainage way is located. The Owner of any Lot shall not in any way interfere with the established drainage pattern over his Lot from adjacent or adjoining Lots, and such Owner will make adequate provisions for property drainage in the event it is necessary to change the established drainage over his Lot. For the purpose herein, "established drainage" is defined as the drainage which occurred at the time the grading of the Lots was completed.

2.6 *Association Grant of Easements.* The Association may grant to third parties easements in, on, and over the Common Area for the purpose of constructing, installing, or maintaining necessary utilities and services, or for any other purpose reasonably related to the operation and maintenance of the Project, and each Residential Lot Owner, in accepting his deed to the Lot, expressly consents to such easement. No such easement can be granted, however, if it would interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his Lot without the approval of the affected Owner.

2.7 *Encroachment Easements.* None of the rights and obligations of the Owners created herein, or by the deed creating the Planned Residential Development shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments over the Common Area or contiguous Lot upon which the encroachment exists so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners. In the event a structure on a Lot is partially or totally destroyed and then rebuilt or repaired, the Owners of such Lots agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for maintenance of such encroachment so long as they shall exist.

2.8 *Utility Easements.* In the case where utility facilities are located on a Lot or Lots owned by other than the Owner of a Lot served by said utility facilities, the Owners of any Lots served by said utility facilities shall have the right of reasonable access for themselves or their agents to repair, replace and generally maintain said utility facilities as and when the same may be necessary.

ARTICLE 3 - ASSOCIATION

3.1 *Organization of the Association.* The Association is incorporated as a non-profit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. The Association is created for the purpose of managing the Project and is charged with the duties and invested with the powers prescribed by law and set forth in the Governing Documents.

3.2 *Membership.* Every Owner, upon becoming an Owner, shall automatically become a Member of the Association. Ownership of a Lot is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations as set forth in the Governing Documents. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Lot. All memberships shall be appurtenant to the Lot conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Lot shall automatically transfer the appurtenant membership to the transferee.

3.3 *Voting Rights.* All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules. Voting rights attributable to any Lot shall be vested with the recording of a deed conveying fee title to a Lot to such Owner or the recording of an installment land sale contract conveying equitable title.

3.4 *Classes of Voting Memberships.* The Association shall have two (2) classes of voting memberships:

3.4.1 *Class A.* Class A Members shall be all owners (including Commercial Condominium Owners) with the exception of the Apartment Area Owners and the Commercial Area Owners other than the Commercial Condominium Owners. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person owns a portion of the interest required for membership, each such person shall be a Member and the vote for such Lot shall be exercised as they among themselves determine. In no event shall more than one (1) vote be cast with respect to any Lot. The Association shall not be required to recognize the vote or written assent of any such co-owner except the vote or written assent of the co-owner designated in writing by all co-owners and delivered to the Association.

3.4.2 *Class B.* The Class B Members shall be the Apartment Area Owners and the Commercial Area

Owners (except Commercial Condominium Owners) subject to the provisions of the Article of this document entitled "Apartment Area and Commercial Area Ownership". Each Apartment Area Owner and Commercial Area Owner shall be entitled to a number of votes determined by multiplying the gross acreage of the portion of the Apartment or Commercial Area owned by such Owner times four (4). The number of votes shall be rounded off to the nearest whole vote. However, each such Owner shall be entitled to at least one (1) vote regardless of the gross acreage of the portion of the Apartment or Commercial Area owned by such Owner. As used in this Article, gross acreage shall be determined from the recorded Tract or parcel map.

3.5 *Approval by the Membership.* The voting rights of the Owners shall be subject to the following:

3.5.1 *Approval By Class.* Any action by the Association which must have the approval of the Association membership shall require the vote or written assent of the prescribed percentage of each class of membership. The voting rights of Class B Members specified in Article 3.4.2 shall not be amended without the vote or written consent of seventy-five percent (75%) of the Class B members.

3.5.2 *Written Assent.* Any provision of this document or the Bylaws which require the vote or written assent of a specified majority of the voting power of the Association or any class or classes or membership shall be deemed satisfied by the following: a writing or writings signed by the specified majority; or, a combination of votes or written assent, provided the Members shall not change their vote or written assets after it is cast or delivered and provided that only those written assents executed within sixty (60) days after a meeting may be combined with those cast at such meeting to constitute the specified majority.

3.5.3 *Record Dates.* The Board may fix, in advance, a record date or dates for the purposes of determining the Owners entitled to vote at any meeting of the membership, or on any matter to be voted upon by mail-in ballot or written assent.

3.6 ***Membership Meetings.*** Regular and special meetings of the Members of the Association shall be held in accordance with the provisions of the Bylaws of the Association.

3.7 ***Election Committee.*** The Election Committee shall be appointed annually by the Board. The Committee will nominate candidates for the Board, regulate nominations, evaluate voting requirements, regulate voting procedures and campaigns and adopt rules regarding candidate qualifications and to ensure an orderly and fair election of the directors. The Board may vest the election Committee with rule-making powers for the limited purpose of effectuating a fair and orderly election of directors.

3.8 ***Board of Directors.*** The affairs of the Association shall be managed by a Board of Directors which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

3.9 ***General Powers and Authority.*** The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject to any limitations set forth in the Governing Documents. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it. Its powers shall include, but are not limited to, the following:

3.9.1 ***Enact Rules.*** The power to adopt, amend, and repeal reasonable rules and regulations governing the use of the Lots, the Common Area, any common facilities and Association owned property. The rules and regulations may include, but are not limited to: reasonable restrictions on use by the Owners and their families, guests, employees, tenants, and invitees; rules of conduct; the setting of reasonable administrative fees, deposits, and use fees; and the setting of reasonable hearing procedures, monetary penalties, fines, and individual assessments in the event of a violation of any provisions of the Governing Documents. The Association Rules may not discriminate among Owners, except to reflect the different nature of the rights of different classes of Owners. The Association Rules, as they may be adopted, amended or repealed, shall be delivered to each Owner. Upon delivery, the Association Rules shall have the same force and effect as if they were set forth in this document. The Association Rules, as adopted, amended or repealed, shall be available to each owner and Institutional Mortgagee upon request at the principal office of the Association. In the event of conflict between an Association Rule and the provisions of this document, the Rule shall

be superseded by the provisions of this document or the Articles or Bylaws.

3.9.2 *Enforce Rules.* Enforce the Rules, provisions of this document, the Articles and the Bylaws by appropriate means and carry out the obligations of the Association. Included, without limitation, are the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions and the promulgation of the Associate Rules as provided in the Bylaws.

3.9.3 *Property Management.* Acquire, maintain, repair, replace, restore, operate and otherwise manage all of the Common Areas and the landscaping thereon.

3.9.4 *Payment of Taxes.* Pay any real and personal property taxes and other charges assessed against the Common Areas.

3.9.5 *Insurance.* Contract for and maintain such policy or policies of insurance as may be required by this document or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its members.

3.9.6 *Delegate Power.* Delegate its power to committees, officers or employees as provided in this document or the Bylaws. However, no such delegation shall relieve the Association of its obligation to perform the delegated duty. The Board may employ a Manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of a planned unit development to perform all or any part of the duties and responsibilities of the Association. Any contract with a person or firm appointed as a manager or managing agent shall be terminable for cause on not more than thirty (30) days written notice by the Association. The terms of the contract shall be for not more than one (1) year with the first successive renewal for a one-year (1-year) period. Subsequent renewals can be for a period of time determined by the Board.

3.9.7 *Maintain Working Capital.* Establish and maintain working capital, reserve funds and contingency fund in amounts to be determined by the Board.

3.9.8 *Architectural Control.* Maintain architectural control over the property in accordance with this document and the Architectural Control Guidelines.

3.9.9 *Power to Enter Any Lot.* Have the power to enter any Lot when necessary in connection with construction, maintenance or repair for the benefit of the Common Areas or the Owners. Also, enter upon any Lot, without liability for trespass or otherwise to any Owner, for the purpose of ascertaining whether or not the provisions of this document have been and are being complied with. Also, for performing any of the Association's duties, including, without limitation, installing and maintaining drainage courses, slopes, landscaping or structures or enforcing any of the provisions of this document. In addition, the Association may enter to maintain and repair any such area if for any reason the Owner thereof fails to maintain and repair his property as required by this document.

3.9.10 *Acquire Real Property.* Acquire real property by lease or purchase for offices or other facilities that may be necessary or convenient for the management of the Common Areas, the administration of affairs of the Association or for the benefit of the Members. The Association may enter into agreements with governmental entities for the leasing, development, use or maintenance by the Association of property not subject to this Restated Declaration if, in the discretion of the Board, such action will benefit the membership.

3.9.11 *Borrow Money.* Borrow money as needed for the administration of the Association and its functions.

3.9.12 *Levy Assessments.* Levy assessments on Owners of Lots and enforce such assessments, all in accordance with the provisions of this document.

3.9.13 *Mediation, Arbitration and Litigation.* The Association shall have the right to institute, defend, settle or intervene in mediation, arbitration or administrative proceedings in its own name as the real party in interest and without joining with it the Owners in matters pertaining to, but not limited to, the following:

(a) Enforcement of the Governing Documents;

(b) Damage to the Common Area or to Lots that the Association is obligated to maintain or repair; and,

(c) Enforcement of payment of assessments in accordance with the provisions of this document.

3.9.14 ***Facilitate Loans.*** The Association shall have the power to negotiate and enter into contracts with Institutional Mortgagees and mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by mortgages within the Property.

3.9.15 ***Grant Easements.*** The Association shall have the power to grant and convey to any third party, subject to Article 3.9.16, easements, rights of way, parcels or strips of land in, on, over or under any Common Areas conveyed, leased or otherwise transferred to it or under its jurisdiction, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder: (1) roads, streets, walks, driveways, equestrian trials, parkways and park areas; (2) underground wires and conduits or other devices for the transmission of electricity for heating, lighting, power, telephone and other purposes; (3) public sewers, storm water drains and pipes; and, (4) similar public or quasi-public improvements or facilities.

3.9.16 ***Convey Property.*** The Association shall have the power to sell, transfer or encumber all or any portion of the Common Area, and any other portion of the project owned by the Association, to a person, firm or entity, whether public or private; provided that if the aggregate fair market value of said property to be sold in any fiscal year exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the vote or written assent of a majority of Owners shall first be obtained.

3.9.17 ***Pledge of Assessment Rights.*** The Association shall have the power to pledge to exercise its assessment powers to obtain funds to repay a debt of the Association; provided, however, any such pledge shall require the prior affirmative vote or written assent of not less than fifty-one percent (51%) of the voting Members at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with special

meetings of Members. The Association may levy special assessments against the Members to obtain such funds. Upon the failure of any Member to pay said special assessment when due, the Association may exercise all of its rights, including, without limitation, the right to foreclose a lien pursuant to Article 4.

3.9.18 ***Liability of Members of Board.*** No member of the Board shall be personally liable to any Owner or to any other person, for any error or omission of the Board or Association, its representatives and employees, or any Committee if such member has acted in good faith based upon such information in his or her possession at the time of the error or omission.

3.9.19 ***Owner Discipline.*** In addition to the general power of enforcement described above, the Association may discipline Owners for violation of any of the provisions of the Governing Documents by suspending the violator's voting rights or other privileges, and by imposing monetary penalties or fines, subject to the following limitations:

(a) The accused Owner shall be given notice of the intention of the Board to impose a penalty or monetary fine with respect to any alleged violation either (i) thirty (30) days prior to the imposition of such penalty or monetary fine, or (ii) at the next meeting of the Board following the violation. In no event shall such notice be given less than fifteen (15) days prior to the imposition of any penalty or fine;

(b) The accused Owner shall be given an opportunity for a hearing before the Board prior to the imposition of a penalty or monetary fine;

(c) Any suspension of an Owner's Association privileges shall not exceed thirty (30) days for each violation;

(d) Except as provided in Article 4 herein relating to foreclosure for failure to pay assessments, or as a result of the judgment of a court or a decision arising out of arbitration, the Association shall in no way abridge each Owner's right of access for

ingress and egress to and from such Owner's Lot and Dwelling thereon; and,

(e) The Board shall have the power to remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations adopted by the Board regarding the towing of vehicles.

3.9.20 ***Miscellaneous Activities.*** The Association may engage in activities which are intended to direct, control, or influence events, activities or circumstances occurring or originating off the Property, but which impact or affect the health, safety or welfare of the membership. The Association may also engage in activities intended to promote and encourage the members to serve and participate in the affairs of the Association and the Shadowridge community.

3.10 ***Duties of the Association.*** In addition to the duties of the Association, its agents and employees set forth elsewhere in the Governing Documents, the Association shall be responsible for the following:

3.10.1 ***Budget.*** The Association shall prepare a pro forma operating budget for each fiscal year, and shall distribute a copy of the budget to each Owner not less than forty-five (45) and not more than sixty (60) days prior to the beginning of the fiscal year. In lieu of the distribution of the financial statement, the Board may elect to distribute a summary of the statement to each Owner with a written notice that the statement is available at the business office of the Association or other designated location and that copies will be provided upon written request and at the expense of the Association. The Association shall provide the copy to the Owner within five (5) working days of the receipt of the written request. The budget shall contain at least the following:

(a) The estimated revenue and expenses on an accrual basis;

(b) A summary of the Association's reserves based upon the most recent review or study conducted pursuant to Section 1365.5 of the California Civil Code, which shall be printed in bold type and include all of the following:

(1) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component;

(2) As of the end of the fiscal year for which the study is prepared: (i) the current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components, and (ii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain those major components;

(3) The percentage that the amount determined for purposes of clause (ii) of subparagraph (B), above, is of the amount determined for purposes of clause (i) of subparagraph (B), above *[For example: if (B)(i), the estimated reserves needed, is $100,000.00, and (B)(ii), actual reserves set aside, is $75,000.00, then (C) means that 75% of the estimated reserves needed have actually been set aside. The foregoing example is for illustration only and is not intended to reflect the Association's actual reserves or estimated reserves needed]*;

The summary of the Association's reserves disclosed pursuant to this subsection (2) shall not be admissible in evidence to show improper financial management of the Association, provided that other relevant and competent evidence of the financial condition of the Association is not made inadmissible by this provision;

(c) A statement as to whether the Board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor; and

(d) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the Association is obligated to maintain.

3.10.2 *Annual Report.* Within one hundred twenty (120) days after the close of each fiscal year, the Association shall prepare and distribute to the Owners an annual report consisting of the following:

(a) A balance sheet as of the end of the fiscal year;

(b) An operating (income) statement for the fiscal year;

(c) A statement of changes in financial position for the fiscal year; and

(d) For any fiscal year in which the gross income to the Association exceeds $75,000.00, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy. If this report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without independent audit or review from the books and records of the Association.

3.10.3 *Assessment Collection Policy.* Within sixty (60) days before the beginning of each fiscal year, the Association shall prepare and distribute to the Owners a statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of assessment against Owners.

3.10.4 *Financial Reviews.* The Board shall review, on at least a quarterly basis, the following:

(a) A current reconciliation of the Association's operating accounts and reserve accounts;

(b) The current year's actual reserve revenues and expenses compared to the current year's budget;

(c) An income and expense statement for the Association's operating and reserve accounts; and

(d) The latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.

3.10.5 *Reserve Account Withdrawal.* The signatures of at least two (2) Directors or one (1) Director and one (1) Officer who is not a Director shall be required for the withdrawal of moneys from the Association's reserve accounts.

3.10.6 *Providing Documents.* The Association shall provide any Owner with the following documents within ten (10) days of the mailing or delivery of a written request therefor:

(a) A copy of the Governing Documents;

(b) A copy of the most recent financial statement;

(c) A written statement from an authorized representative of the Association specifying (i) the amount of the Association's current regular and special assessments and fees, (ii) the amount of any assessments levied on the Owner's Lot that are unpaid on the date of the statement; and (iii) the amount of late charges, interest, and costs of collection that, as of the date of the statement, are or may be made a lien on the Owner's Lot pursuant to Section 4.13;

(d) Any change in the Association's current regular and special assessments and fees which have been approved by the Board, but which have not become due and payable as of the date disclosure is provided pursuant to this subsection;

(e) The Association may charge the Owner a reasonable fee to cover its costs to prepare and reproduce the items requested above.

3.11 *Inspection of Accounting Books and Records.* The rights of Owners and Directors to obtain and inspect the accounting books and records of the Association shall be in accordance with the Bylaws, governing the duty of the Association to maintain certain accounting books and records and the rights of Owners and Directors to obtain and inspect those accounting books and records.

ARTICLE 4 - ASSESSMENTS AND COLLECTION PROCEDURES

4.1 *Covenant to Pay.* Each Owner by acceptance of the deed to the Owner's Lot is deemed to covenant and agree to pay to the Association the regular, special and individual assessments levied pursuant to the provisions of this Restated Declaration. A regular, special or individual assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall be a personal debt of the Owner of the Lot at the time the assessment or other sums are levied. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Area or abandonment of the Owner's Lot.

4.2 *Purpose of Assessments.* Except as provided herein, the Association shall levy regular, special and individual assessments sufficient to perform its obligations. The assessments levied by the Association shall be used exclusively to promote the recreation and welfare of the Owners; for the operation, replacement, improvement, and maintenance of the Project, and to discharge any other obligations of the Association under this Restated Declaration. All assessment payments shall be put into a maintenance fund to be used for the foregoing purposes.

4.3 *Regular Assessments.* Concurrently with preparation of the financial documents and budget, the Board shall estimate the net charges to be paid during that next fiscal year, including a reasonable provision for contingencies, replacements and reserves, with adjustments made for any expected income and surplus from the prior year's fund. The resulting amount shall constitute the regular assessments for the budgeted year. Regular assessments shall be allocated among, assessed against and charged to each Owner. Each Lot shall bear an equal share of the total assessment. Failure of the Board to estimate the net charges within the time period stated herein shall not void any assessment imposed by the Board. Regular assessments for fractions of any month shall be prorated. Each Owner is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.

4.4 *Excessive or Inadequate Assessments.* If the Board determines that the estimated assessments for the current year are, or will become excessive, the Board may either reduce the amount of the regular assessment or may abate collection of regular assessments. If the Board determines that the estimated assessments for the current year are or will become inadequate to meet expenses, the Board shall immediately determine the estimated amount of the inadequacy and prepare a supplement to the budget. The Board shall then calculate a revised regular assessment and notify each Owner of the amount and the dates it will be payable.

Any action taken pursuant to this section shall be in conformance with the limits and restrictions on assessment increases contained in Article 4.

4.5 ***Special Assessments.*** If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Area, or any other reason, it shall make a special assessment for the additional amount needed. Special assessments shall be levied and collected in the same manner as regular assessments.

4.6 ***Individual Assessments.*** If the Association undertakes to provide materials or services which benefit individual Lot Owners, the costs shall be an individual assessment to those benefitted Owners. The Board may also levy an individual assessment against an individual Owner to reimburse the Association for costs, expenses, administrative fees, and attorneys' fees incurred in bringing the Owner's Lot into compliance with this document, the Articles, the Bylaws or the Association Rules. Such special individual assessments may be levied upon the vote of the Board after notice is given the Owner and an opportunity for a hearing is provided.

4.7 ***Uniform Rate of Assessments.*** Regular and Special assessments shall be allocated among and assessed equally against all Lots as determined by the Board except for: (1) Individual assessments levied in accordance with Section 4.6, (2) Assessments of the Apartment Areas or Commercial Areas which shall be fixed at a rate set forth in the Article hereof entitled "Apartment Area and Commercial Area Ownership", and (3) Assessments for the Neighborhood known as Shadowridge Highlands comprised of ten (10) homes located on Brogue Court and Dundee Way. All assessments shall be levied on an annual basis and may be collected at such time intervals as determined by the Board. The Board may declare immediately due and payable the entire annual regular assessment on any Lot for which the Owner has become delinquent in the payment of regular assessments by sixty (60) or more days.

4.8 ***Lien For Monetary Penalty.*** In the event the Board of Directors imposes a monetary penalty or fine against an Owner, that fine may become a lien, enforceable, pursuant to Section 4.13 herein.

4.9 ***Limitations on Assessments.*** Except in emergency situations, the Board may not, without the approval of Owners casting a majority of the votes at a meeting or election of the Association at which a quorum is present conducted in accordance with Corporations Code Sections 7510 - 7527 and 7613, impose a regular assessment per Lot that is more than twenty percent (20%) greater than the regular assessment for the preceding fiscal year, or levy special assessments that in the aggregate exceed five percent (5%)

of the budgeted gross expenses of the Association for that fiscal year. A special assessment imposed pursuant to Section 1365.5(c) of the California Civil Code is not subject to the five percent (5%) limitation stated above. For purposes of this Section, a "quorum" means more than fifty percent (50%) of the Owners of the Association. These limitations shall not apply to assessment increases that are necessary for emergency situations. An emergency situation is an extraordinary expense that is:

4.9.1 ***Court Ordered.*** Required by a court order;

4.9.2 ***Safety Threat.*** Necessary to repair or maintain the Project or any part of it for which the Association is responsible when a threat to personal safety in the Project is discovered; or

4.9.3 ***Unforeseen Repairs.*** Necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget. Before the Board may impose or collect an assessment in this emergency situation, it shall pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Owners with the notice of assessment.

4.10 ***Owner Notice of Increase in Assessments.*** The Association shall provide notice by first-class mail to the Owners of any increase in the regular or special assessments of the Association not less than thirty (30) nor more than sixty (60) days prior to the increased assessment becoming due.

4.11 ***Limitation on Assessment Increases.*** Annual increases in regular assessments for any fiscal year, as authorized by Section 4.9, above, shall not be imposed unless the Board has complied with subdivision (a) of Section 1365 of the California Civil Code with respect to that fiscal year, or has obtained the approval of Owners casting a majority of the votes at a meeting or election of the Association at which a quorum is present conducted in accordance with Corporations Code Sections 7510-7527 and 7613. For the purposes of this Section, "quorum" means more than fifty percent (50%) of the Owners of the Association.

4.12 ***Late Charges.*** Late charges may be levied by the Association against an Owner for the delinquent payment of regular, special and individual assessments. An assessment, including any

installment payment, is delinquent fifteen (15) days after its due date. If an assessment is delinquent the Association may recover all of the following from the Owner:

4.12.1 *Costs.* Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorneys' fees;

4.12.2 *Late Fee.* A late charge not exceeding ten percent (10%) of the delinquent assessment or ten dollars ($10.00), whichever is greater, or the maximum amount allowed by law;

4.12.3 *Interest.* Interest on the foregoing sums, at an annual percentage rate of twelve percent (12%) commencing thirty (30) days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments.

4.13 *Enforcement of Assessments and Late Charges.* A delinquent regular, special or individual assessment, fine, monetary penalty, and any related late charges, reasonable costs of collection (including attorneys' fees), penalties, and interest assessed in accordance with Section 4.12 herein shall become a lien upon the Lot when a notice of delinquent assessment is duly recorded as provided in Section 1367 of the California Civil Code. The notice shall describe the amount of the delinquent assessment or installment, the related charges authorized by this Restated Declaration, a description of the Lot, the name of the purported Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association, or any employee or agent of the Association authorized to do so by the Board.

Unless the Board considers the immediate (without notice) recording of the notice to be in the best interests of the Association, the notice may not be recorded until fifteen (15) calendar days after the Association has delivered a written demand for payment. If the delinquent assessment or installment and related charges are paid or otherwise satisfied, the Association shall record a notice of satisfaction and release of lien.

Any such lien may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the notice of delinquent assessment or by a trustee substituted

pursuant to Section 2934(a) of the California Civil Code, in accordance with the provisions of Sections 2924, 2924(b), and 2924(c) of the California Civil Code.

If the sums specified in the notice of delinquent assessment are paid before the completion of any judicial or non-judicial foreclosure, the Association shall record a notice of satisfaction and release the lien. Upon receipt of a written request by the Owner, the Association shall also record a notice of rescission of any declaration of default and demand for sale.

The Notice of Assessment Lien is not required to be amended by the Association or Trustee to reflect any partial payments made on the account of the delinquent Owner after its recordation, and any such partial payments received shall not be construed to invalidate the Notice of Assessment Lien and said Notice of Assessment Lien may be foreclosed upon as set forth herein even though the delinquent Owner has made one or more partial payments.

The Board, on behalf of the Association, shall have the right to (i) bid at any foreclosure sale of a Lot, (ii) a credit, in any such bidding, in the amount of the aggregate of the unpaid assessments, interest, late charges and costs of collection, and (iii) hold, lease, mortgage and convey said Lot in the name of the Association. Nothing herein shall prohibit the Association from instituting legal proceedings against an Owner to collect delinquent assessments owed by such Owner.

4.14 ***Transfer of Lot by Sale or Foreclosure.*** The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage, including the exercise of a power of sale or judicial foreclosure involving a default under such first mortgage, shall extinguish the lien of such assessments as to payments which became due and payable prior to such sale or transfer (except for assessment liens recorded prior to the mortgage). No sale or transfer, including, but not limited to, sales or transfers pursuant to the exercise of a power of sale or judicial foreclosure, shall relieve such Lot or the prior Owner from liability for any assessments thereafter becoming due or from the lien thereof. Where the mortgagee of a first mortgage of record obtains title to a Lot as a result of a foreclosure of any such first mortgage, such mortgagee shall not be liable for the unpaid dues or charges of the Association chargeable to such Lot which accrued prior to the acquisition of title to such Lot by such mortgagee. Such unpaid dues or charges shall be deemed to be common expenses collectible from the Owners of all of the Lots including such mortgagee. In a voluntary conveyance of a Lot, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his 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 upon payment of a reasonable fee set by the Board, setting forth the amount of the unpaid assessments due the Association and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien 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.

4.15 ***Priorities.*** When a notice of assessment (notice of default and demand to cure) has been recorded, such assessment shall constitute a lien on each respective Lot prior and superior to all other liens except: (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Suit to recover a money judgment for unpaid assessments and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may temporarily suspend the Association membership rights of an Owner who is in default in payment of any assessment.

4.16 ***Exempt Property.*** The following portions of the Property shall be exempt from the assessments created herein: (1) all properties dedicated to and accepted by, or otherwise acquired by, a public authority; (2) the Common Area owned in fee by the Association; and (3) Lots owned in common by a Maintenance Association. However, no land or improvements devoted to residential or commercial use shall be exempt from said assessments.

4.17 ***No Offsets.*** All assessments shall be payable in the amount specified by the assessment and no offsets against such amounts shall be permitted for any reason, including with limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Governing Documents.

4.18 ***Statement of Delinquent Assessment.*** The Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Lot.

ARTICLE 5 - USE RESTRICTIONS AND COVENANTS

5.1 ***General.*** The use and enjoyment of the Project by Owners and their tenants, guests, invitees or any other person deriving rights from such Owner, shall be subject to the covenants and restrictions contained in this Restated Declaration. Each such person shall comply with the provisions hereof and be subject to

any enforcement actions in the event of violations. Unless otherwise stated in the Governing Documents, the Association, through the Board of Directors, shall be responsible for the enforcement of these provisions.

5.2 ***Common Area***. The following provisions govern the use and enjoyment of the Common Area:

5.2.1 ***Owner Easements***. Subject to the provisions of this Restated Declaration, each Owner has a non-exclusive easement for ingress, egress, and support through the Common Area. This easement shall be appurtenant to such deed of conveyance, whether or not expressed in such deed of conveyance. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right;

5.2.2 ***Use By Owners***. The Owners' use and enjoyment of the Common Area shall be subject to the restrictions set forth in the Governing Documents, including the right of the Association to:

(a) Adopt and enforce reasonable rules and regulations for the use of the Common Area and the Project;

(b) Borrow money for the purpose of improving, replacing, restoring or expanding the Common Areas or adding new Common Areas and in aid thereof, to mortgage said property.

(c) Dedicate or transfer all or any part of the Common Areas owned by the Association to any public agency, authority or utility, or other entity, for such purposes and subject to such conditions as may be agreed to by the Members. Any such dedication or transfer, including, without limitation, the conveyance, lease or other transfer of any portion of the Common Areas to a special tax assessment district or the City, shall require the prior affirmative vote or written assent of not less than fifty-one percent (51%) of the voting Members other than the Declarant at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with special meetings of Members. An instrument shall be recorded evidencing such vote and agreement to such dedication or transfer.

(d) To establish in cooperation with the City, a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right of the Association to convey, lease or otherwise transfer, subject to the provisions of paragraph (c) above, all or any portion of the Common Areas to said district.

(e) To grant, dedicate, consent to or join in the grant or conveyance of easements, licenses or rights-of-way in, on or over the Common Area.

5.3 *General Restrictions on Use.* In exercising the right to occupy or use a Lot or the Common Area and its improvements, the Owner and the Owner's family, guests, employees, tenants, and invitees shall not do any of the following:

5.3.1 *Subdivision of Lots.* Attempt to further subdivide a Lot;

5.3.2 *Residential Use.* Occupy or use a Lot, or permit all or any part of a Lot to be occupied or used, for any purpose other than as a private residence. Commercial or business uses of a residence which cause or result in a violation of the Governing Documents with respect to hazardous materials, nuisances, vehicle restrictions or the use of garages are prohibited. Nothing in this Restated Declaration shall prevent an Owner from leasing or renting his or her Lot, provided that it is not for transient or hotel purposes; is for a period of at least sixty (60) days; the tenant specifically agrees, in writing, to abide by the Governing Documents; the tenants' agreement is made enforceable by the Association; the lease is in writing; and a copy of the lease is furnished to the Association.

5.3.3 *Obstruction of Common Area.* Permit anything to obstruct the Common Area or store anything on the Common Area without the prior written consent of the Board, except as otherwise provided in the Governing Documents;

5.3.4 *Hazardous Materials.* Store gasoline, kerosene, cleaning solvents or other flammable liquids or substances on any Lot or the Common Area; provided, however, that reasonable amounts of these liquids, substances or materials may be

placed in appropriate metal containers and properly stored in the storage spaces;

5.3.5 ***Nuisances.*** No noxious, illegal or offensive activities shall be carried on in any Lot or in any part of the Property, nor shall anything be done thereon which may be, or may become, an annoyance or a nuisance which may in any way interfere with the quiet enjoyment of Owners of their respective Lots, or which shall in any way increase the rate of insurance for the Association, or cause any insurance policy to be cancelled or to cause a refusal to renew a policy.

5.3.6 ***Vehicle Restrictions.*** No trailer, camper, motor home, recreational vehicle, commercial vehicle, truck (other than a standard-size pickup truck), inoperable automobile, boat or similar equipment shall be permitted to remain, to be constructed or repaired upon any area within the Property, other than temporarily for purposes of loading or unloading passengers or personal property. However, the vehicles listed may be maintained within an enclosed garage or carport or obscured from view of adjoining lots, streets or alleys by a fence or appropriate screen. The vehicles may also be stored in an area specifically designated for such purpose by the Board.

(a) Commercial vehicles shall not include sedans or standard-size pickup trucks which are used both for business and personal use. Any signs or markings of a commercial nature on such vehicles shall be prohibited. However, such commercial vehicles may be allowed in designated Commercial Areas.

(b) No noisy or smoky vehicles shall be maintained or operated upon the Property, except as reasonably necessary to the execution of the rights or duties of the Association under this document. No trailer, camper or mobile home shall be allowed to be parked on public streets within the Property. Any such parking shall be considered a nuisance.

(c) Any fences, screens or screening required under this Article shall comply with the Architectural Control Guidelines as to size, color and other qualifications.

(d) The Board shall have the power to enact and enforce Rules and Regulations governing vehicle parking including but not limited to garage parking, driveway parking, the definitions for each category of vehicle, and fines that may be assessed for violating the rules.

5.3.7 ***Use of Garages.***

(a) The principal use of garages shall be for parking vehicles. Garages shall be used in such a manner as to accommodate the parking of at least the number of vehicles (cars, trucks or vans) for which the garage was designed. Unless a variance is obtained, vehicles must be parked in the garage, and the parking of vehicles in the driveway or street is prohibited. Permanent living quarters, exercise rooms or excessive storage areas which displace a vehicle are prohibited in any garage.

(b) Garage doors shall be closed except for temporary purposes such as when vehicles are being loaded or unloaded. Driveways must be kept free of oil, grease, paint, rust and other unsightly materials.

(c) Fines or individual assessments may be levied against Owners for violations by Owners or their invitees, employees or tenants.

5.4 ***Maintenance Association Use Restrictions.*** Nothing herein shall prevent a Maintenance Association from adopting use restrictions for its portion of the Property which are more restrictive than those set forth herein, provided that such restrictions shall in no way modify the provisions hereof.

5.5 ***Use of Signs.*** Signs shall not be displayed to the public view on any Lot or on any portion of the Property except those approved by the Architectural Control Committee in accordance with their printed Guidelines. "For Sale" or "For Rent" signs shall be allowed provided they do not exceed four (4) square feet and comply with the Guidelines and Sections 712 and 713 of the Civil Code. The Board, in cooperation with the Architectural Committee, may establish reasonable rules regarding open houses and the use of signs, banners, balloons and other eye-catching devices. Before any sign is displayed on any Lot, the Architectural Guidelines should be consulted. Any sign, banner, flag, balloon, or eye-catching device placed upon the Property in violation of the Governing Documents will be pursued as a violation.

5.6 ***Animals.*** No Owner shall raise, breed or keep animals, livestock or poultry of any kind in a Lot or on the Common Area, except dogs, cats or other household pets, which may be kept on Lots, subject to the Rules of Regulations of the Association. However, an animal may not be kept on a Lot if, in the judgment of the Board, it results in an annoyance or is obnoxious to the residents in the immediate area.

5.6.1 ***Household Pets.*** All dogs shall be kept on a leash when on any portion of the Property other than the Owner's Lot. Cats not confined to their owner's Lot shall be considered a "nuisance" under Section 5.3.5.

5.6.2 ***Pet Enclosures.*** Pet enclosures must follow the Architectural Control Guidelines regarding the location on the Owner's Lot and the type of materials that may be used in constructing the enclosure.

5.6.3 ***Pet Rules.*** The Board shall have the power to enact and enforce Rules and Regulations governing the keeping of pets including but not limited to the types and sizes of pets that may be kept on the Lots, cleaning up after pets, the keeping of horses in specific designated areas which shall be known as Equestrian Areas, and a system of fines for violations.

5.7 ***Oil and Mineral Operations.*** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon any lot.

5.8 ***Unsightly Items.*** All weeds, rubbish, debris, unsightly materials or objects of any kind shall be regularly removed from the Lots and shall not be allowed to accumulate. All clotheslines, rubbish containers, woodpiles, storage areas, machinery and equipment shall be prohibited upon any Lot unless obscured from view of adjoining streets, lots, alleys, the golf course or Common Areas nearest such portion of the Property from a height of six (6) feet or less. Any fence or screen required by this Article shall comply with the Architectural Control Guidelines.

5.9 ***Roofs, Antennae and Skylights.***

5.9.1 ***Roof Projections.*** No projections of any type shall be placed or permitted to remain above the roof of any Dwelling, Commercial Building or structure with the exception of one or more chimneys, one or more vent stacks or other items

as may be approved by the Architectural Control Committee.

5.9.2 *Antennae.* Antennae, including satellite dishes, of any description installed outside of any dwelling or garage, including apartments, condominiums or commercial properties within the Shadowridge Community must conform in size, location and method of screening with the Architectural Control Guidelines.

5.9.3 ***Solar Equipment.*** Skylights and Solar Energy Equipment require the approval of the Architectural Control Committee and must conform with the Committee's published guidelines.

5.10 ***Drainage.***

5.10.1 ***Obstruction.*** No obstruction, diversion bridging, pollution or confining of drainage courses or channels through which surface water naturally flows in time of storms shall be made by an Owner in such a manner as to cause damage to other Lots.

5.10.2 ***Improvements.*** Any proposed improvements or alteration, which would affect the drainage established by the initial grading of the Lot, shall not be approved unless the Architectural Control Committee determines that satisfactory drainage is provided.

5.10.3 ***Erosion Control.*** All slopes, plantings or terraces on any Lot shall be maintained in such a way as to prevent any erosion of adjacent property or streets.

5.10.4 ***Maintenance.*** Any area drains and other drainage facilities and systems not maintained by a public authority, utility or the association shall be maintained by the Owner so as to facilitate the orderly discharge of water.

5.11 ***Window Coverings.*** Curtains and drapes, shutters or blinds of a neutral or unobtrusive color shall be installed as window covers, subject to the Architectural Control Committee's discretion. No windows shall be covered with aluminum foil or with similar materials, or with reflective materials which create a mirror effect.

5.12 ***Roll-up Shades.*** Plastic or bamboo shades may be permitted provided that when shades are not in immediate use, they

are concealed behind a patio support structure. All shades must be maintained in good repair.

5.13 ***Temporary Structures***. No structure of a temporary character, trailer, basement, tent, free-standing sun canopy, shack, garage, barn, or outbuilding shall be placed on any Lot at any time, either temporarily or permanently, without the written approval of the Architectural Control Committee.

5.14 ***Self-regenerative Water Softeners***. In order to provide for the proper functioning of the reclaimed water system, the use of self-regenerative water softeners on any Property within Shadowridge is prohibited.

5.15 ***Golf Course Hazards***. Lots adjacent to the Shadowridge Golf Course are subject to passing and falling golf balls.

5.16 ***Damage Liability***. Each Owner shall be liable to the Association for any damage to the Common Area or to Association owned property to the extent that the damage is not covered by insurance, if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installment or maintenance of any improvement by the Owner or the Owner's family, guests, tenants, contract purchasers, or invitees. In the case of joint ownership of a Lot, the liability of the co-owners shall be joint and several, unless the co-owners and the Association have agreed in writing to an alternative allocation of liability.

5.17 ***Variances***. The Board or the Architectural Control Committee, may authorize variances from compliance with any of the architectural or use provisions of this Restated Declaration as follows:

5.17.1 ***Circumstances***. Variances may be granted, without limitation, to restrictions upon use contained in Article 5, restrictions on repair and maintenance in Article 6, and architectural restrictions in Article 7, when circumstances such as topography, location, engineering, economy, hardship, aesthetic or environmental considerations warrant.

5.17.2 ***Approval***. Variances shall be in writing and shall become effective upon final approval by the Board or an authorized Committee.

5.17.3 ***Effect of Variance***. When a variance is granted, no violation of the Restated Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the terms and provisions of this Restated Declaration for any purpose except as to the

particular property and particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the premises, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by the County of San Diego or any other governmental authority.

5.17.4 ***Fees***. The Association may charge a reasonable fee to cover any costs associated with the variance approval process, or for issuance of a variance.

5.17.5 ***Variance Rules***. The Board may enact additional rules and regulations regarding the variance approval process, the circumstances under which a variance may be granted, and the execution of indemnity or other agreements by the Owner as a condition to issuance of a variance.

ARTICLE 6 - REPAIR AND MAINTENANCE

6.1 *General*. The Association and all Owners are required to fulfill the maintenance requirements imposed by the Governing Documents. For purposes of this Article "maintenance" shall include without limitation painting, weatherproofing and cleaning to keep a clean, safe and sanitary condition necessary to preserve the attractive appearance of each Lot, Dwelling and the Project and protect the values thereof. The Board and Architectural Control Committee shall have the power to enact and enforce Rules and Regulations governing maintenance standards for the Lots, including time limits for the completion of any landscaping required to be installed by the Owner.

6.2 ***Association Responsibility***. The Association shall provide for the maintenance and repair of the Common Areas, including the following:

6.2.1 ***Improvements***. The Common Area and all improvements thereof, including bicycle paths, trails, pedestrian paths, parks, monuments, signs, walls and appurtenances.

6.2.2 ***City Standards***. All private streets, private walkways, adjacent streetscapes and appurtenances. The Property Maintenance must conform with the standard of maintenance established by the Director of Public Works of the City for public streets and streetscapes within the City.

6.2.3 *Landscaping*. The Common Area landscaping and gardening, including the property maintenance and periodic replacement, when necessary, of the trees, bushes, ground cover and irrigation system.

6.2.4 *Drainage*. All drainage courses, drainage facilities and easements located on the Common Area must be maintained in accordance with the requirements of the San Diego County Flood Control District and any other government agency or utility having jurisdiction therefor.

6.2.5 *Rights-of-Way* and *Open Space*. Public rights-of-ways described in Exhibit "C", open space easements, parkways, slope easements, drainage courses, entries and slopes described in Exhibit "B" and any other public rights-of-ways, open spaces, open space easements, parkways, entries or slopes designated in this document must be maintained according to the standards established by the City's Director of Public Works for public rights-of-ways in the City or any other Governmental agency or entity having jurisdiction thereof.

6.2.6 *Membership Requests*. All other areas, facilities, equipment, services, or aesthetic components of any nature as may from time to time be requested by the vote or written assent of two thirds (2/3) of the Owners.

6.2.7 *Discretion Not to Repair*. The Association may refrain from repairing or maintaining, or may remove, any portion of the Common Area if, in the discretion of the Board, such action is in the best interest of the Association aesthetically, economically, or practically.

6.3 *Owner Responsibility*. Except for those portions of the Project which the Association is required to maintain and repair, each Lot Owner shall, at his sole cost and expense, maintain and repair his Lot and all improvements thereon in an attractive and neat manner, including the exterior surfaces and roofing of his Dwelling and all landscaping thereon.

Each Owner shall also maintain and repair any fences or walls or slopes located thereon; provided, however, the cost of maintenance and repair of any fence or wall which separates Lots shall be shared by the respective Lot Owners.

6.4 *Failure to Maintain.*

6.4.1 *Notice to Owner.* When the Board finds a deficiency in maintenance or installation, the Board shall give notice of the deficiency to the responsible Owner. The Notice shall describe the deficiency and set a date for a hearing before the Board. The Board may delegate its power under this Article to a duly-appointed committee of the Association.

6.4.2 *Hearings.* Such hearings shall be held at the Board meeting following the said notice. In the case of an "undue hardship", an extension may be granted.

6.4.3 *Correction of Deficiency.* The hearing shall be conducted according to reasonable rules and procedures adopted by the Board. The Owner shall have the right to present oral and written evidence. If the Board determines a violation exists, a date shall be set by which the deficiency is to be corrected. Unless an unresolvable problem occurs, all work shall be completed according to the schedule set forth by the Board.

6.4.4 *Enforcement.* If a violation is not corrected by the deadline imposed by the Board, the Board may cause such maintenance or installation to be accomplished. If the Association pays for all or any portion of the maintenance work, an individual assessment may be levied against the Owner for the cost incurred. The Board may also take any other action, including levying a fine or filing a lawsuit, which it deems appropriate to correct the violation.

6.5 *Negligent Act or Neglect.* The responsibility of the Association for maintenance, repair and replacement shall not extend to any such action arising out of or caused by the willful or negligent act or neglect of an Owner, or such Owner's guests, tenants, invitees or pets, the cost of which is not covered by insurance carried by the Association. Such maintenance, repair and replacement shall be made by the responsible Owner, provided the Board approves the person actually making the repairs and the method of repair. If the responsible Owner fails to take the necessary steps to rectify the situation within a reasonable time under the circumstances, the Association shall make the repairs and charge the cost thereof to the responsible Owner, which cost shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law) until paid in full. If an Owner disputes his or her responsibility for the

repairs, the Owner shall be entitled to a notice and hearing as provided herein before any charges may be imposed.

6.6 *Standards for Maintenance and Installations.*

6.6.1 ***Exteriors.*** The exterior of dwellings, commercial buildings, structures, walls, fences and roofs shall be maintained in accordance with this document and the Architectural Control Guidelines.

6.6.2 ***Visible Portions of Lots.*** All portions of a Lot which are visible from neighboring property are required to be landscaped pursuant to the Architectural Control Guidelines and this document and shall be planted and landscaped by the Owner according to the approved plans and specifications. Such landscaping shall be maintained by the Owner in a clean, safe and attractive condition.

6.6.3 ***Weed Control.*** Prior to and during the installation of landscaping, the Owner shall cut or otherwise control the growth of weeds and other plants on his or her Lot so that they are not unsightly or cause a potential health or fire hazard.

6.6.4 ***Common Area Landscaping.*** No Owner shall remove, alter, injure or interfere in any way with any shrubs, trees, grass or planting placed upon any Property within the Common Areas without the written consent of the Association.

6.6.5 ***Maintenance Associations.*** For the purposes of this Declaration, a Maintenance Association shall be deemed responsible for the maintenance of an area if a recorded declaration of covenants, conditions and restrictions designates such area to be maintained by such Maintenance Association. The members of a Maintenance Association shall not amend any such declaration to terminate or modify the maintenance responsibilities of such Maintenance Association without the prior written approval of the Board. In the event that a Maintenance Association does not fulfill its maintenance responsibilities in compliance with the Guidelines and this Section 6.6, the Association may perform such maintenance itself and levy on the members of such Maintenance Association a special assessment therefor.

ARTICLE 7 - ARCHITECTURAL AND DESIGN CONTROL

7.1 *General*. The powers and duties set forth in this Article shall be vested in, and exercised by, the Board. The Board may delegate its authority hereunder to an Architectural Control Committee formed as provided herein.

7.2 *Restricted Activity*. No building, addition, landscaping, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, trellis, improvement or structure of any kind, or exterior alteration shall be commenced, erected, placed, painted or maintained upon any Lot or the Project, nor shall any alteration or improvement of any kind be made thereto, until the same has been approved in writing by the Board, or by an Architectural Control Committee.

7.3 *Plan Submission and Review*. Complete plans and specifications showing the nature, kind, shape, color, size, height, materials to be used and location of any proposed improvements, alterations or landscaping shall be submitted to the Board or to the Architectural Control Committee for approval as to quality of workmanship, design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. In the event the Board or Committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, and an Owner gives the Board or Committee written notice of its failure to approve or disapprove, approval will be deemed to have been given if no action is taken within thirty (30) days of receipt of the notice from the Owner.

7.3.1 *Approval By Entire Committee*. The Committee may delegate its plan review responsibilities to one or more members of the Committee. However, approval or disapproval of a plan and its specifications by such persons shall only be considered a recommendation to the entire Committee. The entire Committee must, by vote or a majority of a quorum of the Committee, approve or disapprove all plans and specifications submitted. Unless all rules regarding submission of plans and specifications are complied with, such plans and specifications shall be deemed not submitted.

7.3.2 *Approval Standards*. Approval will only be given to plans that indicate: (a) the quality of workmanship and materials are similar to those existing in Shadowridge and (b) the design and character of the changes are harmonious with existing improvements and with the natural topography of the immediate vicinity. Considered

are the location of the improvements in regard to topography and other structures, the finished grade elevation, the nature of other improvements in the area, other land uses in the area, the adequacy of site dimensions and all other criteria which should be evaluated in making such a determination. The overall effect must be such that the improvements will blend with, and will not set apart from, the natural topography.

7.3.3 ***Written Approval.*** All approvals must be in writing and a copy of the approved plans must be filed with the Management Company for the Shadowridge Owners' Association. Oral approvals are of no force or effect. Other approvals and permits may be required, including, but not limited to, review approval of the plan by the City of Vista's Planning Department.

7.3.4 ***Revocation of Approval.*** The Committee may amend or revoke any approval if the Committee determines the approval was granted pursuant to incorrect, insufficient, or misleading facts or information, provided the amendment or revocation does not unduly prejudice an Owner. No Owner whose conduct contributed to the incorrect, insufficient or misleading facts or information may claim undue prejudice.

7.3.5 ***Conflicts Between Standards.*** If a conflict arises between the standards contained in the Architectural Guidelines and the regulations of the City of Vista or any sub-association within the Shadowridge community, the most restrictive standards shall apply.

7.4 ***Restrictions.*** The Architectural Guidelines must be consulted by Owners to determine the restrictions that apply to fencing, walls, materials, landscaping, setback of structures and improvements.

7.5 ***Waivers.*** The approval by the Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

7.6 ***Variances.*** Where unusual circumstances warrant, the Committee may grant reasonable variances from the architectural control provisions stated in the Architectural Control Guidelines. Such variances will be made on a case-by-case basis and will not serve as a precedent for the granting of any other variances.

7.7 ***Appeals.*** In the event plans and specifications submitted to the Committee are disapproved, a written appeal may be submitted to the Board. The Architectural Control Guidelines provide information regarding when and how appeals are to be submitted.

7.8 ***Reconstruction of Condominiums.*** The reconstruction after destruction by casualty or otherwise of any Condominium which is accomplished in compliance with a Condominium Plan filed covering the portion of the Property in which the Condominium is situated shall not require compliance with the provisions of the Architectural Control Guidelines. Such reconstruction shall be deemed to be in compliance with such Condominium Plan if it received the approval of the Maintenance Association formed by Condominium Owners with the portion of the Property in which the Condominium being reconstructed is located. This Article may not be modified or eliminated without the prior vote or written assent of a majority of all Owners of Condominiums. However, if the reconstruction is not in accordance with the Condominium Plan, Architectural Control Guidelines shall apply unless the Board provides otherwise.

7.9 ***Exempted from Review.*** No permission or approval shall be required to repaint in accordance with the original color scheme or as previously approved by the Committee or the Board, or to rebuild in accordance with plans and specifications previously approved by the Board or its Committee. Nothing contained herein shall be construed to limit the right of an Owner to paint the interior of his or her Dwelling any color desired, or to improve or alter any improvements within the interior of the Owner's Dwelling; provided such improvement or alteration does not impair the Common Area, or any utilities, or other systems servicing the Common Area or other Lots, and does not involve altering any Common Area.

.7.10 ***Architectural Control Committee.*** The Board shall determine the number of members of the Architectural Control Committee, all of whom shall be appointed by the Board.

7.10.1 ***Committee Membership.*** The Board shall establish rules and conditions for service upon the Committee including but not limited to individual qualifications for service, term of service, and removal from the Committee.

7.10.2 ***Committee Rules.*** The Board shall adopt Architectural Control Committee guidelines setting forth the duties, responsibilities, and operation of the Committee.

7.11 ***Meetings.*** The Architectural Control Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of the majority of the Architectural Control Committee shall constitute an act by such

body unless the unanimous decision of its members is otherwise required by the Governing Documents.

7.12 ***Fee for Review.*** The Board or Architectural Control Committee shall have the right to establish: (1) a reasonable fee for the review and approval of plans and specifications which must be submitted to the Committee pursuant to the provisions of this Article; and (2) a reasonable deposit to be paid by an Owner as a condition to the commencement of any construction. The deposit may be used by the Association to pay for repairs to property damaged during the construction process; to pay fines and penalties levied against the Owner during the construction process; or to pay any other expense or obligation necessitated by the construction or the enforcement of the Governing Documents during the construction process. Should any or all of a deposit be used by the Association, the Owner can be required to deposit sufficient additional monies so as to return the amount on deposit to the original amount required.

7.13 ***Architectural Guidelines.*** The Architectural Control Committee shall draft, develop, and recommend rules and regulations to be known as "ARCHITECTURAL GUIDELINES" which it shall present to the Board for approval and adoption. The Committee may also, from time to time in its discretion, draft, develop and recommend amendments, additions, and deletions to the Architectural Guidelines which it shall present to the Board for approval and adoption. The Board shall have the exclusive right to adopt, amend, and repeal Architectural Guidelines. Said Architectural Guidelines shall interpret and implement the provisions of this Article by setting forth the standards and procedures for review by the Board or Committee, and the guidelines for architectural design, placement of buildings, landscaping, tree height, color schemes, exterior finishes and materials and similar features which are required for use in the Project. The guidelines shall also set forth the procedure for enforcing both the guidelines and the decisions of the Committee, including appropriate fines and penalties for violations of either this Article 7, the guidelines, or a decision of the Committee.

7.14 ***Estoppel Certificate.*** Within a reasonable time after written demand is delivered to the Board or Architectural Control Committee by any Owner, and upon payment to the Association of a reasonable fee, if any, the Board or Committee shall provide the Owner with an estoppel certificate certifying that as of the date thereof, either: (a) all improvements made and other work completed by said Owner complies with the Governing Documents, or (b) such improvements or work do not so comply, in which event the certificate shall also identify the non-complying improvements or work and set forth with particularity the basis of such non-compliance. Any purchase from the Owner, or from anyone deriving any interest in said Lot through him, shall be entitled to

rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, the Owners and such persons deriving any interest through them.

7.15 ***Escrow Notification***. Prior to the sale or transfer of any Lot, the Owner shall, either directly or through escrow, notify the Architectural Control Committee of the pending transfer and request an Estoppel Certificate pursuant to Section 7.14. The Certificate shall be provided directly to the escrow agent, or to the seller and buyer if no escrow is involved. The Owner shall also comply with the document disclosure provisions of Civil Code Section 1368.

7.16 ***Liability***. Neither the Board, the Architectural Control Committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the neighborhood; or (d) the execution and filing of an estoppel certificate whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him. The Committee does not review plans and specifications on the basis of engineering design, structural soundness, or compliance with building codes and construction standards. By approving plans and specifications neither the Committee nor any individual member assumes any responsibility or liability for any defect or deficiency in the structure constructed from such plans and specifications.

7.17 ***Enforcement***. In the event of a violation of any of the provisions of this Article by any Owner including, without limitation, failure of any Owner to comply with the written directive or order from the Board or Architectural Control Committee, the Board or Committee shall have the right and authority, after proper notice and the opportunity for a hearing, to perform the subject matter of such directive including, if necessary, the right to enter the Lot where a violation of these restrictions exists, and the cost of such performance shall be individually assessed to the Owner of the Lot in question. Such costs shall be due within five (5) days after receipt of written demand therefore, and shall bear interest at the maximum rate allowed by law. Said costs may be recovered by the Board or Committee together with such interest and reasonable attorney's fees and costs in an action at law against such Owner.

7.18 ***Non-Compliance with Laws***. Neither the Association, the Board nor the Architectural Control Committee shall be responsible for any non-compliance with any governmental law, rule or regulation of any building or other structure erected, constructed, installed, placed, altered or maintained in accordance with or

pursuant to any plans and specifications approved by the Board or Committee or any defect in any conditions or requirements they may have imposed with respect thereto.

7.19 *Approval by City*. Prior to commencing any alteration or improvements approved by the Board or Architectural Control Committee, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Board or Committee shall not be considered to satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction. The Association shall not be obligated to enforce the provisions of this Section. An Owner's failure to obtain such governmental approval may subject such Owner to certain penalties imposed by the governmental entity, notwithstanding the approval of the Board or Committee, which penalties shall be the responsibility of such Owner.

ARTICLE 8 - OTHER STANDING COMMITTEES

8.1 *Greenbelt Committee*. Members of the Committee and the Chairperson shall be appointed by the Board. The Committee will be responsible for various Common Areas within Shadowridge.

8.1.1 *Duties*. It shall be the duty of the Committee to determine whether or not the provisions of the landscape contract are being carried out in order to maintain the high quality of the landscaping that exists within the Common Areas.

8.1.2 *Budget*. The Committee shall be responsible for adhering to the landscaping budget which is determined annually by the Board.

8.1.3 *Committee Rules*. The Board shall adopt Greenbelt Committee guidelines setting forth the duties, responsibilities, and operation of the Committee.

8.2 *Advisory Committee*. The Vice President of the Association shall serve as the Advisory Committee Chairperson. The Advisory Committee shall provide information and recommendations to the Board, and provide for communications between the Board and the Owners within the various sub-associations and neighborhoods.

8.2.1 *Membership*. Each sub-association or neighborhood within Shadowridge shall have a member and an alternate on the Advisory Committee.

8.2.2 *Sub-Associations*. Each sub-association's board of directors shall recommend to the Board the individuals that they desire to act as their Committee member and alternate. The Board shall appoint all Committee members.

8.2.3 ***Neighborhoods***. If a neighborhood does not have a board of directors, a Committee member and alternate shall be recruited and appointed by the Board.

8.2.4 ***Committee Rules***. The Board shall adopt Advisory Committee guidelines setting forth the duties, responsibilities, and operations of the Committee.

8.3 ***Code of Ethics***. Committee members play an important role in assisting the Board in managing the affairs of the Association. Committee Members must observe the Committee Members' Code of Conduct in fulfilling their responsibilities. Upon appointment to a Committee, members will be provided with a copy of the Code of Conduct with which they will agree to abide.

ARTICLE 9 - INSURANCE

9.1 ***Fire and Casualty Insurance***. The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of any insurable improvements in the Common Areas. An "agreed amount endorsement", or its equivalent, and clauses waiving subrogation against Members and the Association and persons upon the Property with the permission of a member shall be included if available. The insurance must afford protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage and such other risks as shall customarily be covered with respect to similar planned unit developments in the area of the Property.

9.2 ***General Liability Insurance***. The Association shall obtain and maintain a policy or policies insuring the Association, Directors, Officers, Committee members, employees, the Manager, Owners and the Owners' relatives, invitees, guests, employees and their agents against any liability for bodily injury, death and property damage arising from the activities of the Association and its members. Limits of liability under the insurance shall not be less than five million dollars ($5,000,000.00) covering all claims for death, personal injury and property damage arising out of a single occurrence. A "severability of interest" endorsement or the equivalent shall be included which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Association or other Owners.

9.3 ***Fidelity Coverage***. Coverage must be obtained against dishonest acts on the part of directors, officers, managers, trustees, employees or volunteers who handle, or who are responsible to handle, the funds of the Association. The fidelity

bonds shall name the Association obligee, shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses, including reserves, of the Association. If the policy would not otherwise cover volunteers, an appropriate endorsement to cover any person who serves without compensation shall be added.

9.4 ***Workers' Compensation Insurance.*** The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

9.5 ***Other Insurance.*** The Association may purchase other insurance as it deems necessary, but shall not be required to purchase earthquake insurance.

9.6 ***Annual Review.*** The Board shall annually determine whether the amounts and types of insurance obtained provide adequate coverage. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

9.7 ***Premiums and Proceeds.*** Insurance premiums shall be a common expense to be included in the regular assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried.

9.8 ***Trustee for Policies.*** The Association, acting through its Board, is appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of the policies shall be paid to the Board as trustee. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim, to enforce any claim by any lawful action and to execute loss claim forms and releases forms in connection with such settlements.

9.9 ***Waiver by Members.*** The Members hereby waive and release all claims against the Association, the Board and the agents and employees of each with respect to any loss covered by insurance, whether or not caused by negligence or breach of any agreement, but only if the policies will not be voided or impaired by the waiver.

9.10 ***Failure to Acquire Insurance.*** The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain any insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Association Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any

Mortgagee entitled to notice that the specific insurance will not be obtained or renewed.

9.11 ***Individual Insurance.*** An Owner shall separately insure his or her property, and shall obtain and maintain such insurance as may be required by any Mortgagee of the Owner's Lot, and in no event less than the amount and type as is customary and reasonable with respect to similar projects in the area, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association, and the institutional First Mortgagee of the Owner's Lot. The Owner shall integrate his or her personal insurance with the Association's insurance.

9.12 ***Insurance Policy Deductibles.*** The Board shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

9.12.1 ***Owner Property.*** Owners shall be responsible for the cost of any deductible if the damage or loss occurs to an Owner's personal property, or to property for which the Owner is responsible.

9.12.2 ***Association Property.*** The Association shall be responsible for the cost of any deductible if the damage or loss occurs to any property owned by the Association, or to property for which the Association is responsible.

9.12.3 ***Owner Responsible for Loss.*** The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, the responsible Owner shall be liable for the cost of the deductible.

ARTICLE 10 - EASEMENTS

10.1 ***Elimination of Easements.*** Easements provided to Buena, V.I.D., or other public agencies cannot be modified by the Association.

10.2 ***Owners' Rights and Duties: Utilities and Cable Television.*** The rights and duties of Lot Owners with respect to water, sewer, electricity, gas, telephone, cable television lines and drainage facilities shall be covered by the following:

10.2.1 ***Easements.*** Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone and cable television

lines or drainage facilities are installed within the Property, the Owners of any Lot served by the connections, lines or facilities shall have the right to an easement. The easement provides for entering upon the Lots owned by others, or for utility companies to enter upon the Lots owned by others, in or upon which connections, lines, facilities or any portion thereof lie to repair, replace and generally maintain connections. After completion of the work, the Owner or utility company using the easement shall promptly repair any damage to a Lot cause by such entry.

10.3 ***Repair and Maintenance.*** There is hereby reserved to the Association easements for the purposes as provided in the Article of this Declaration entitled "Repair and Maintenance".

10.4 ***Common Area Easements.*** Common Area easements are hereby granted to the Association on, over and across those portions of the Lots listed in Exhibit "B" (or designated as such in an appropriate Exhibit to any Declaration of Annexation) and shown by cross-hatching, slanted lines or other devices thereon; those portions are designated as "Slopes", "Entries" and "Drainage Courses"; provided, however, that the boundaries and dimensions of the Slopes, Entries and Drainage Courses are approximate only and shall not be construed as limiting the actual physical boundaries of such areas. The fee to the Slopes, Entries and Drainage Courses may be owned by individual Lot Owners but such easement areas shall be maintained by the Association as provided in this Declaration. The Board shall have the power to enact and enforce Rules and Regulations governing Owner conduct and activities within the Slope, Entry, and Drainage Course easement areas.

ARTICLE 11 - RIGHTS OF MORTGAGEES

11.1 ***Warranty.*** Mortgagees of Lots in the Project shall be entitled to the rights and guaranties set forth in this Article. No amendment of this Article shall affect the rights of the holder of any First Mortgage recorded prior to the recordation of the amendment who does not join in the execution of this amendment.

11.2 ***First Mortgage Liens.*** No breach of any of the Covenants, Conditions or Restrictions contained in this Restated Declaration, nor enforcement of any lien pursuant to Article 4, shall render invalid the lien of any First Mortgage on any Lot, Dwelling, or Structure made in good faith and for value.

11.3 ***Property Acquired through Foreclosure or Trustee's Sale.*** All of the provisions of the Governing Documents of the Association shall be binding upon, and effective against, any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

11.4 ***Notice to Lenders.*** All Institutional Mortgagees that have filed with the Association an appropriate written request shall be entitled to receive the following notices in writing from the Association or the Association's agent:

11.4.1 ***Proposed Amendments.*** Notice of any proposed change in the Declaration, Articles or Bylaws shall be given thirty (30) days prior to the effective date of such change.

11.4.2 ***Owner Violations.*** Notice of default by the Owner or trustor of any deed or trust on any Lot, Dwelling or structure in which the beneficial interest is held by said Institutional Mortgagees in the performance of such Owner's or trustor's obligation under the Restated Declaration, which default is not cured within sixty (60) days.

11.5 ***Subordination.*** Notwithstanding any other provision of this Restated Declaration, liens created under Article 4 herein upon any Lot shall be subject and subordinate to, and shall not affect the rights of the holder of, the indebtedness secured by recorded First Mortgage upon which interest is made in good faith and for value. The transfer of a Lot as the result of a foreclosure or exercise of a power of sale shall not relieve the new Owner from Liability for any assessments that become due after the transfer. Such a transfer shall extinguish the lien of assessments that were due and payable prior to the transfer of the Lot. Such subordination in no way relieves a delinquent Mortgagor of its personal obligation to pay assessments.

11.6 ***Right to Furnish Mortgage Information.*** Each Owner hereby authorizes the First Mortgagee of a First Mortgage on the Owner's Lot to furnish information to the Board concerning the status of the First Mortgage and the loan that it secures.

11.7 ***Changes Requiring Lender Approval.*** Without the prior written approval of at least sixty-six and two third percent (66 2/3%) of the Institutional Mortgagees, based upon one (1) vote for each first mortgage owner, the Association shall not be entitled to:

11.7.1 ***Assessment Changes.*** Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

11.7.2 ***Abandonment of Regulations.*** By act or omission materially change, waive or abandon the scheme of regulations or enforcement thereof, of Lots and Dwellings, the exterior maintenance of Lots, fences and driveways, or the upkeep of lawns and plantings in Shadowridge;

11.7.3 *Abandonment of Insurance.* Fail to maintain fire and extended coverage insurance on all insurable portions of the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs; and,

11.7.4 *Use of Insurance.* Use hazard insurance proceeds for losses or damages to any portion of the Common Area for other than the repair, replacement or reconstruction thereof.

11.8 *Right to Inspect Records.* Institutional Mortgagees shall have the right to examine the books and records of the Association.

11.9 *Voting Rights.* In the event of a default by the Owner of any Lot in any payment due under the terms of any Institutional Mortgage or the promissory note secured thereby, the Institutional Mortgagee or his representative shall have the right, upon giving written notice to the defaulting Owner, to exercise the voting rights of the defaulting Owner at any regular or special meeting of the Members held during such time as the default continues. When the default is cured, the Owner's voting rights shall be restored.

ARTICLE 12 - APARTMENT AREA AND COMMERCIAL AREA OWNERSHIP

12.1 *Delegation of Vote.* An Apartment Area Owner or the Owner of a Commercial Area may delegate its Class B vote to the tenant of its Apartment units or Commercial units in any manner it deems advisable. The Owners shall notify the Board of such delegation. Any fractional votes created by such delegation may be rounded off by the Owners so long as the total vote does not exceed the total such Owners are entitled to pursuant to Section 3.4.

12.2 *Applicability of Declaration.* The Apartment Area Owners and Commercial Area Owners shall be considered Owners. The portion of the Apartment Area or Commercial Area which each owns shall be considered a Lot with respect to all the Articles of this Restated Declaration. Commercial Condominium Owners shall be assessed as and have the same voting rights as Class A Members.

12.3 *Payment of Assessments.* Each Apartment Area and Commercial Area Owner (except for Commercial Condominium Owners) shall pay a fraction of regular, special, capital improvements and reconstruction assessments equal to said assessments as levied against a Class A Member owning a single Lot times the number of votes to which such Apartment Area or Commercial Area Owner is entitled.

12.4 *Conversion to Condominium.* An Apartment Area or Commercial Owner, in its sole discretion, may elect to convert its portion of the Apartment or Commercial Area to a condominium

project or projects pursuant to the California Civil Code. In such event, the Owners of condominiums in such converted apartment buildings shall all be Owners as defined in this Restated Declaration.

12.4.1 ***Assessments.*** The new condominium owners shall be assessed at the same rate as other Owners, shall have the same voting rights as other Owners of the same Class of Members and shall be subject to all of the provisions of this Restated Declaration in the same manner as the other Members.

ARTICLE 13 - ANNEXATION

13.1 ***Annexation.*** Upon approval of a two-thirds (2/3) majority vote of Members in each voting class, any person owning real property who desires to add such property to Shadowridge, and subject such property to the jurisdiction of the Association, may file a Declaration of Annexation.

13.2 ***Annexation Procedures.*** Annexation shall become effective when, and only when, the last of each of the following events occurs:

13.2.1 ***Subdivision Maps.*** If required by law, a Subdivision Map shall have been filed with respect to the real property to be annexed.

13.2.2 ***Declaration of Annexation.*** A Declaration of Annexation has been recorded by the Owner. The Declaration shall contain, among other items, an exhibit designating any Common Areas; state and land use classifications; and proof that the annexation requirements have been met.

13.3 ***Effect of Annexation.*** When an annexation becomes effective, the annexed property shall become and constitute a part of Shadowridge and the Association shall have, and shall exercise, jurisdiction over such real property and all Owners of Lots in the annexed real property shall automatically be Members of the Association.

13.4 ***Mergers or Consolidations.*** Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association or, alternatively, surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established by this Restated Declaration for Shadowridge together with the covenants, conditions and restrictions established upon any other property as one plan.

ARTICLE 14 - DAMAGE OR DESTRUCTION

14.1 *Duty to Restore Lot.* If all or any portion of any Lot or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Lot to rebuild, repair or reconstruct the Dwelling on such Lot in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the Architectural Committee. The Owner of any damaged Lot or Dwelling and the Architectural Committee shall be obligated to proceed with all due diligence hereunder, and such Owner shall mitigate any danger presented by such damage or destruction and thereafter cause reconstruction to commence within three (3) months after the damage occurs and be completed within one year after damage occurs, unless prevented by causes beyond his reasonable control.

14.2 *Duty to Restore Common Area.* If any of the improvements in the Common Area are destroyed or damaged, the Association shall restore and replace the improvements subject to the provisions of this Article.

14.3 *Automatic Restoration and Repair.* If the proceeds of any insurance maintained for reconstruction or repair of the Common Area are equal to at least eighty-five percent (85%) of the estimated cost of restoration and repair, the Board shall use the insurance proceeds for that purpose, shall levy a special assessment or provide the necessary additional funds, and shall have the improvements promptly rebuilt, unless the Owners by the vote or written consent of not less than seventy-five percent (75%) of the total voting power of the Association object to the restoration or repair work within sixty (60) days of the damage or destruction.

14.4 *Approval for Certain Restorations and Repairs.* If the proceeds of any insurance maintained herein for reconstruction or repair of the Common Area are less than eighty-five percent (85%) of the estimated cost of restoration and repair, any restoration and repair work must be authorized by the vote or written consent of Owners representing at least seventy-five percent (75%) of the total voting power of the Association and beneficiaries of at least seventy-five percent (75%) of the First Mortgages on Lots in the Project. This authorization must be given within sixty (60) days of the damage or destruction, and must authorize the Board to levy a special assessment to provide the necessary funds over and above the amount of any insurance proceeds available for the work.

14.5 *Minor Restoration and Repair Work.* The Association shall order restoration or repair work without complying with the other provisions of this Article whenever the estimated cost of the work does not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. The five percent limitation shall apply to each occurrence rather than in the aggregate. If insurance proceeds are unavailable or insufficient, the Association

shall levy a special assessment for the cost of the work. The Assessment shall be levied in the manner described in Article 4 herein.

ARTICLE 15 - EMINENT DOMAIN

15.1 ***Condemnation of a Lot.*** If all or any part of a Residential Lot is taken by eminent domain, the award shall be disbursed to the Owner of the Lot subject to the rights of the Owner's mortgagees. If the taking renders the Lot uninhabitable, the Owner shall be divested of any further interest in the Project, including membership in the Association, and the interest of the remaining Owners shall be adjusted accordingly.

15.2 ***Condemnation of Common Area.*** If all or any part of the Common Area is taken by eminent domain, the proceeds of condemnation shall be used to restore or replace the portion of the Common Area affected by condemnation, if restoration or replacement is possible, and any remaining funds, after payment of any and all fees and expenses incurred by the Corporation relating to such condemnation, shall be distributed among the Owners in the same proportion as such Owners are assessed, subject to the rights of mortgagees. If necessary, the remaining portion of the Project shall be resurveyed to reflect such taking.

ARTICLE 16 - ENFORCEMENT

16.1 ***Right to Enforce.*** The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Restated Declaration.

16.2 ***Nuisance.*** The result of every act or omission by an Owner, occupant, family member, guest, employee, invitee, or tenant, whereby any provision, condition, restriction, covenants, easement, or reservation contained in the Governing Documents is violated in whole or in part, is declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner or the Association. Each remedy provided herein shall be cumulative and not exclusive.

16.3 ***Violation Reporting.*** In determining the existence of violations of the Governing Documents, the Board, in its discretion, may rely upon reports from Owners and other third parties rather than implementing a system whereby the Association conducts patrols, walk-throughs, and otherwise actively seeks out violations.

16.4 *Failure to Enforce.* Failure by the Association or any Owner to enforce any provisions of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

16.5 *Violation of Law.* Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Lot within the Project is declared to be a violation of this Declaration and subject to any or all of the enforcement procedures herein set forth.

16.6 *Self-Help Remedies.* The Board may enforce the Governing Documents by means of self-help where, in the discretion of the Board, the self-help remedy will be effective, expedient, and will not involve a breach of the peace. The individual(s) responsible for the violation for which the self-help remedy is used shall be responsible for all costs and expenses incurred by the Association including reasonable attorneys' fees.

16.7 *Attorneys Fees.* In the event an attorney is engaged by the Board to enforce the Governing Documents, the Association shall be entitled to recover from the adverse party to the controversy its attorneys fees and costs so incurred. In the event litigation is commenced to enforce the Governing Documents, the prevailing party shall be entitled to its attorneys fees and costs. Said costs and attorneys fees shall constitute a lien on the Lot which is enforceable pursuant to Article 4 herein. This Section shall also apply to attorneys fees incurred to collect any post-judgment costs.

ARTICLE 17 - AMENDMENTS

This Restated Declaration may be amended by the vote or written consent of Owners representing not less than fifty-one percent (51%) of both (1) each class of membership, and (2) the voting power of the Association. Notwithstanding any contrary provision in this Section, the percentage of the voting power necessary to amend a specific clause or provision of this Restated Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision.

Class A and Class B members shall exercise their voting rights in good faith when voting upon amendments. If the rights of either class are not materially affected by an amendment which fails to receive the approval of that class, and that class has failed, in the discretion of the Board, to act in good faith with respect to the other class, the Board may elect to disregard the vote of the class determined not to be acting in good faith.

An amendment becomes effective after (a) the approval of the required percentage of Owners has been given, (b) that fact has been certified in the form of a written document executed and

acknowledged by an officer designated by the Association for that purpose or, if no such designation is made, by the President of the Association and (c) the document has been recorded in the county in which this Project is located.

ARTICLE 18 - GENERAL PROVISIONS

18.1 ***Term.*** The provisions of this Restated Declaration shall continue in effect for a term of fifty (50) years from the date of execution. Thereafter, it shall be automatically extended for successive periods of ten (10) years, until the membership of the Association decides to terminate it.

18.2 ***Nonwaiver of Remedies.*** Each remedy provided for in this Restated Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

18.3 ***Severability.*** The provisions of this Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision.

18.4 ***Binding.*** This Restated Declaration, as well as any amendment thereto and any valid action or directive made pursuant to it, shall be binding and the Owners and their heirs, grantees, tenants, successors, and assigns.

18.5 ***Interpretation.*** The provisions of this Restated Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a common interest development.

18.6 ***Limitation of Liability.*** The liability of any Owner for performance of any of the provisions of this Restated Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Lot with respect to obligations arising from and after the date of the divestment.

18.7 ***Fair Housing.*** Neither Association nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Lot to any person on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, age, marital status or physical handicap.

18.8 ***Use of Reclaimed Water.*** It is the intent of Declarant that reclaimed water from the Shadowridge Wastewater Reclamation Facility be used to irrigate the Common Areas maintained by the Association. The reclaimed water shall be used on the Property to

the fullest extent possible and in compliance with, and in a manner compatible with, the applicable regulations, laws, rules, or policies of all governmental entities including Buena.

18.9 ***Number and Headings***. As used in this Restated Declaration, the singular shall include the plural, unless the context requires the contrary. The headings are not a part of this Restated Declaration, and shall not affect the interpretation of any provision.

IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Declaration of Restrictions this 31st day of August, 1995.

DECLARANT:

SHADOWRIDGE OWNERS' ASSOCIATION,
a California nonprofit mutual benefit corporation

Dated: August 31, 1995 By: R. M. Cooke
President

Dated: August 31, 1995 BY: Marjorie M. Leeson
Past President

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

On Aug 31, 1995, before me, the undersigned, a Notary Public in and for said County and State, personally appeared R. M. Cooke, ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Sue C. Durkovich
Notary Public

PWR1 SUE C. DURKOVICH Comm. # 1035738 NOTARY PUBLIC - CALIFORNIA San Diego County My Comm. Expires Aug. 11, 1998 PWR1

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

1461

State of California

County of San Diego

On Aug. 31, 1995 (Date) before me, Sue C. Durkovich (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Marjorie Leeson (Name(s) of Signer(s))

☒ personally known to me – OR – ☐ 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.

PWR1 SUE C. DURKOVICH Comm. # 1035738 NOTARY PUBLIC - CALIFORNIA San Diego County My Comm. Expires Aug. 11, 1998 PWR1

WITNESS my hand and official seal.

Sue C. Durkovich
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: First Amended & Restated Deal. B. CC&R - SR Owners

Document Date: 8-31-95 Number of Pages: 54

Signer(s) Other Than Named Above: R. M. Cooke

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☒ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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A. MAINTENANCE ASSOCIATIONS

1. Bella Vista at Shadowridge

ALL LOTS OF VISTA TRACT 85-4 (Amended Map) IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 12238 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON OCTOBER 27, 1988.

2. Brock Manor

ALL LOTS OF VISTA TRACT 86-10 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11750 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 30, 1987.

3. Lido at Shadowridge

ALL LOTS OF VISTA TRACT 86-6 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11749 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 26, 1987.

ALL LOTS OF VISTA TRACT 86-15 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11748 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 26, 1987.

4. Mallorca at Shadowridge

ALL LOTS OF VISTA TRACT 86-01 (PHASE B OF PHASE IV, AREA E, LOT 5) IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11173 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 15, 1987.

5. Portico at Shadowridge

ALL LOTS OF VISTA TRACT 86-13 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11800 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 28, 1987.

6. Shadowridge Aspens

PARCEL B OF PARCEL MAP 13721 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 18, 1985, AS FILE NUMBER 85-089671.

ALL UNITS SHOWN ON THAT CERTAIN CONDOMINIUM PLAN ENTITLED "SHADOWRIDGE ASPENS" FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 11, 1988, AS FILE NUMBER 88-333725.

7. Shadowridge Clubview

LOTS 1 AND 2 OF VISTA TRACT 82-15 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10699 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON AUGUST 15, 1983.

ALL UNITS SHOWN ON THAT CERTAIN CONDOMINIUM PLAN FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 11, 1984, AS FILE NUMBER 84-259999.

8. Shadowridge Cottages

ALL LOTS OF VISTA TRACT 83-3 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10698 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON AUGUST 15, 1983.

ALL LOTS OF VISTA TRACT 83-3 (PHASE II) IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10947 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MAY 22, 1984.

9. Shadowridge Cottages II

ALL LOTS OF VISTA TRACT 83-9 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11169 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 28, 1985.

10. Shadowridge Crest/Landing II

ALL LOTS OF VISTA TRACT 86-12 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11763 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 9, 1987.

ALL LOTS OF VISTA TRACT 86-14 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11764 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 9, 1987.

11. Shadowridge Glen

ALL LOTS OF VISTA TRACT 80-29 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10066 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 17, 1981.

ALL UNITS SHOWN ON THAT CERTAIN CONDOMINIUM PLAN ENTITLED "SHADOWRIDGE GLEN" FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 1, 1981, AS FILE NUMBER 81-208125.

12. Shadowridge Greens

ALL LOTS OF VISTA TRACT 81-32 (PHASE 2) IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10261 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON NOVEMBER 16, 1981.

ALL LOTS OF VISTA TRACT 81-32 (PHASE 1) IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10182 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 1, 1982.

13. Shadowridge Highland West

ALL LOTS OF VISTA TRACT 84-7 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11656 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON NOVEMBER 25, 1986.

14. Shadowridge Panorama

ALL LOTS OF VISTA TRACT 86-2 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11623 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 19, 1986.

15. Shadowridge Sunrise

ALL LOTS OF VISTA TRACT 84-8 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11272 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 2, 1985.

16. The Cove (Landing) at Shadowridge

ALL LOTS OF VISTA TRACT 85-5 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11563 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 9, 1986.

17. Tuscany at Shadowridge

ALL LOTS OF VISTA TRACT 86-11 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11812 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 23, 1987.

B. NEIGHBORHOODS

1. Shadowridge Estates

Shadowridge Heights

ALL LOTS OF VISTA TRACT 77-24 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 9612 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 8, 1980.

2. Shadowridge Fairways

ALL LOTS OF VISTA TRACT 78-26 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 9982 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JANUARY 27, 1981.

3. Shadowridge Falcon Hill

ALL LOTS OF VISTA TRACT 84-9 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11615 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 11, 1986.

4. Shadowridge Highlands

ALL LOTS OF VISTA TRACT 83-12 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11614 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 11, 1986.

5. Shadowridge Point

ALL LOTS OF VISTA TRACT 78-28 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10124 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JUNE 17, 1981.

6. Shadowridge Summit

ALL LOTS OF VISTA TRACT 77-27 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 9629 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 22, 1980.

7. Shadowridge Vistas North

ALL LOTS OF VISTA TRACT 85-2 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11860 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 16, 1987.

8. Shadowridge Westview

ALL LOTS OF VISTA TRACT 84-1 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11314 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON AUGUST 29, 1985.

C. APARTMENT AREA

1. Shadowridge Country Club Apartments

PARCEL A OF PARCEL MAP 14210 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 27, 1986, AS FILE NUMBER 86-078243.

2. Shadowridge Heights Apartments

PARCEL A OF PARCEL MAP 14204 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 27, 1986, AS FILE NUMBER 86-077473.

3. Shadowridge Meadows Apartments

PARCEL A OF PARCEL MAP 14711 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 27, 1987, AS FILE NUMBER 87-105065.

4. Shadowridge Summerwind Apartments

PARCEL A OF PARCEL MAP 13920 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON AUGUST 20, 1985, AS FILE NUMBER 85-301420.

5. Shadowridge Village Apartments (East)

ALL LOTS OF VISTA TRACT 82-10 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10544 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON DECEMBER 21, 1982.

6. Rancho Hills Apartments, formerly known as Shadowridge Village Apartments (West)

ALL LOTS OF VISTA TRACT 82-10 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11236 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MAY 17, 1985.

7. Shadowridge Woodbend Apartments

LOT 11 OF VISTA TRACT 81-28 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11170 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 1, 1985.

8. Sycamore Greens Apartments

LOTS 3 THROUGH 10, INCLUSIVE, OF VISTA TRACT 82-15 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10699 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON AUGUST 15, 1983.

D. COMMERCIAL AREA

1. Melrose Square

PARCEL H OF PARCEL MAP 14210 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 27, 1986, AS FILE NUMBER 86-078243.

2. Melrose Village Plaza

PARCEL A OF PARCEL MAP 14497 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON OCTOBER 2, 1986, AS FILE NUMBER 86-443757.

3. Rancho Buena Vista Plaza

PARCEL B OF PARCEL MAP 14497 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON OCTOBER 2, 1986, AS FILE NUMBER 86-443757.

E. MISCELLANEOUS

1. Recreational Vehicle ("R.V.") Lot

LOT A OF VISTA TRACT 84-7 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11656 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON NOVEMBER 25, 1986.

2. The Church of Jesus Christ of Latter-Day Saints

PARCEL B OF PARCEL MAP 14711 OF THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON FEBRUARY 27, 1987, AS FILE NUMBER 87-105065.

3. Undeveloped Site

LOT 4 OF VISTA TRACT 81-28 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11170 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 1, 1985.

F. PROPERTY LOCATED WITHIN THE SHADOWRIDGE COMMUNITY BUT NOT SUBJECT TO THIS RESTATED DECLARATION

1. Thibodo Park

LOT 32 OF VISTA TRACT 77-24 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 9612 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON APRIL 8, 1980.

2. Shadowridge Park

LOTS 4 AND 5 OF VISTA TRACT 78-24 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10151 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 21, 1981.

3. City Park (Melrose Drive and Shadowridge Drive)

LOT 7 OF VISTA TRACT 81-28 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11170 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 1, 1985.

4. Rancho Buena Vista High School

LOT 8 OF VISTA TRACT 81-28 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11170 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 1, 1985.

5. Reservoir Site (Water Tank)

LOT 6 OF VISTA TRACT 78-24 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 10151 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JULY 21, 1981.

6. Water Reclamation Plant

LOT 2 OF VISTA TRACT 81-28 IN THE CITY OF VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 11170 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON MARCH 1, 1985.

EXHIBIT "B" - ASSOCIATION MAINTAINED PRIVATE PROPERTY

All slopes, entries, drainage courses, parkways, open space areas, and irrigated property which are identified as the Association's responsibility to repair and maintain in (1) the "Declaration" (defined in paragraph F of the Recitals to this Restated Declaration), or (2) a recorded Declaration of Annexation or other recorded instrument to which all or any part of the "Property" is subject.

EXHIBIT "C" - ASSOCIATION MAINTAINED PUBLIC PROPERTY

All public rights of way which are identified as the Association's responsibility to repair and maintain in (1) the "Declaration" (defined in paragraph F of the Recitals to this Restated Declaration), or (2) a recorded Declaration of Annexation or other recorded instrument to which all or any part of the "Property" is subject.