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PML Management Corporation
655 Mariners Island Blvd. #301
San Mateo, CA 94404

**SECOND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
CURENAVACA HOMEOWNERS ASSOCIATION**

JUNE 18, 2007

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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**CUERNAVACA
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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CUERNAVACA HOMEOWNERS ASSOCIATION

**SECOND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS SECOND RESTATED DECLARATION, is made on this 18th of June 2007, by the CUERNAVACA HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation.

This Second Restated Declaration of Covenants, Conditions and Restrictions of Cuernavaca Homeowners Association restates the following:

A. Declaration of Covenants, Conditions and Restrictions recorded April 17, 1986, as series 8753321, in Book J662 at page 1257 in the Official Records of Santa Clara County, California.

B. First Amendment to Declaration of Covenants, Conditions and Restrictions of Cuernavaca Homeowners Association recorded September 17, 1986 as series 8947871, in Book J847 at page 818 in the Official Records of Santa Clara County, California.

C. First Restated Declaration of Covenants, Conditions and Restrictions of Cuernavaca Homeowners Association recorded August 13, 1997 as Document 13812815 in the Official Records of Santa Clara County, California.

D. The Cuernavaca Homeowners Association is the owner of all that Property located in the City of Mountain View, County of Santa Clara, State of California, more particularly described as all that land within the boundaries of the subdivision shown on the Map entitled "Tract No. 7706 Cuernavaca", with the exception of the Lots and buildings owned by homeowners, filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on July 10, 1985, in Book 546 of Maps, pages 11 through 19, as adjusted by the City of Mountain View Resolution No. 14354, Series 1986, filed for record in the Office of the Recorder of the County of Santa Clara, State of California on March 5, 1986, in Book J620, page 2047.

E. Each Lot shall have appurtenant to it a membership in the CUERNAVACA HOMEOWNERS ASSOCIATION, a nonprofit mutual benefit corporation, which shall own the Common area.

F. The Association declares that all Lots are subject to the following declarations, limitations, easements, restrictions, covenants, and conditions, which are imposed as equitable servitudes for the purpose of enhancing and protecting the value and desirability of the Property, and which shall run with the real property and be binding on The Association and its successors and assigns, and on all parties having or acquiring any right, title or interest in or to the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

**ARTICLE I
DEFINITIONS**

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as amended/restated from time to time.

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1.2 "Assessment" shall mean and refer to any Regular, Special or Individual Assessment made or assessed by the Association against an Owner and his/her Lot.

1.3 "Association" shall mean and refer to the CUERNAVACA HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation, its successors and assigns, the Members of which are the Owners of Lots in the Property.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean and refer to the Bylaws of the Association, as amended/restated from time to time.

1.6 "Common area" shall mean and refer to all real property and all improvements owned by the Association for the common use and enjoyment of the Owners, consisting of Lot 47,88, 131 and 174.

1.7 "Common expenses" shall mean and refer to the actual and estimated expenses and reserves for operating, repairing, and/or replacing the Common area.

1.8 "Declaration" shall mean and refer to this Declaration, as amended/restated or supplemented from time to time.

1.9 "Eligible holder mortgages" shall mean and refer to Mortgages held by "Eligible mortgage holders".

1.10 "Eligible mortgage holder" shall mean and refer to a First lender who has requested notice of certain matters from the Association in accordance with section 8.5C.

1.11 "Eligible insurer or guarantor" shall mean and refer to an insurer or governmental guarantor of a first Mortgage.

1.12 "First lender" shall mean and refer to any bank, savings and loan association, insurance company, or other financial institution holding a recorded first Mortgage on any Lot.

1.13 "Governing Documents" shall mean and refer to this Declaration, the Bylaws, the Articles of Incorporation and any amendments, restatements, modifications and/or supplements and any rules, regulations, resolutions and decisions adopted by the Board or Association.

1.14 "Heritage Tree" shall mean and refer to any tree existing on the Property that has a trunk diameter of at least sixteen (16) inches measured two (2) feet above the ground.

1.15 "Lot" shall mean and refer to any plot of land, together with any improvements shown upon the Map, except the Common area.

1.16 "Map" shall mean and refer to that Map entitled "Tract No. 7706 Cuernavaca", filed for record the 10th day of July, 1985, in Book 546 of Maps at page(s) 11 through 19, in the records of Santa Clara County, as adjusted by the City of Mountain View Resolution No. 14354, Series 1986, filed for record on the 5th day of March, 1986, in Book J620, at page(s) 2047, in the Records of Santa Clara County, California.

1.17 "Member" shall mean and refer to a person entitled to membership in the Association.

1.18 "Mortgage" shall mean and refer to a deed of trust as well as a Mortgage.

1.19 "Mortgagee" shall mean and refer to a beneficiary or a holder of a deed of trust as well as a Mortgagee.

1.20 "Mortgagor" shall mean and refer to the trustor of a deed of trust as well as a Mortgagor.

1.21 "Owner" or "Owners" shall mean and refer to any person(s) or entity(ies) that own(s) a fee simple interest in any Lot.

1.22 "Person" shall mean and refer to a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.23 "Property" shall mean and refer to the real property described in recital A above.

1.24 "Singular and plural" shall mean and refer to the masculine, feminine and neuter gender and shall each include the other where the context requires.

1.25 "Builder" shall mean and refer to DIVIDEND/BAY VIEW, a joint venture (the Members of which were Dividend Development Corporation, a California Corporation and Bay View Financial Corporation, a California corporation)

**ARTICLE II
DESCRIPTION OF PROPERTY, DIVISION OF PROPERTY,
AND CREATION OF PROPERTY RIGHTS**

2.1 The Cuernavaca Homeowners Association consists of four (4) Common area Lots and one hundred seventy (170) residential Lots. All private driveways, streets, parking spaces, sewage collection and water distribution lines were designed in accordance with Chapter 28 of the Mountain View City Code.

2.2 Easements; Dedication of Common Area: Each of the Lots shown on the Map shall have appurtenant to it as the dominant tenement an easement over the Common area(s) owned by the Association as the servient tenement(s) for ingress and egress, and for use, occupancy and enjoyment, and where applicable, for the construction, maintenance and operation of utilities. The Association reserves the right to grant to the Owners of Lots, as the dominant tenement, non-exclusive easements for ingress and egress and construction activities over the Common area of the Property as the servient tenement. All the foregoing easements are subject to the following:

A. The right of the Association to discipline Members, to suspend the voting rights of a Member, and the right to suspend the use of the recreational facilities by an Owner for any period during which any Assessment against his/her Lot remains unpaid, and for any infraction of the Governing Documents.

B. The right of the Association to dedicate, transfer or mortgage all or any part of the Common area to any public agency, authority, or utility for such purposes and subject to such conditions

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as may be agreed to by the Members, provided, that in the case of the borrowing of money and the mortgaging of its Property as security, the rights of such Mortgagee shall be subordinate to the rights of the Members of the Association. No such dedication, transfer or mortgage shall be effective unless an instrument signed or approved by two-thirds (2/3) of the Members agreeing to such dedication, transfer or Mortgage has been recorded.

C. The right of the Association to grant easements under, in, upon, across, over, above or through any portion of the Common area for purposes, including, without limitation, access, utilities, and parking, which are beneficial to the development of the Property.

D. The right of the Association to install or have installed a cable or central television antenna system or other communication systems that may be appropriate. Any system, if and when installed, shall be maintained by the Association or communication franchisee. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each Lot for the purpose of connecting the same with the master cable television terminal, or a central television antenna or line or other communication system. Each Lot shall be subject to an easement in favor of all other Lots and in favor of the entity holding the communication franchise, to provide for the passage through the Lot and any structure thereon of television connections or other communication connections from any other Lot to the cable or other communication system, and shall be subject to a further easement for the placement and maintenance of such connections.

The foregoing easements are granted and reserved subject to the condition that their use and enjoyment shall not unreasonably interfere with the use, occupancy or enjoyment of all or any part of the Lot servient to them or to which they are appurtenant.

2.3 Easements to Accompany Conveyance of Lot: Easements that benefit or burden any Lot shall be appurtenant to that Lot and shall automatically accompany the conveyance of any Lot, even though the description in the instrument of conveyance may refer only to the fee title to the Lot.

2.4 Delegation of Use: Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common area and facilities to the Members of his family, his tenants, or contract purchasers, who reside on the Property. Nonresident Members, their families, guests and relatives, are not permitted to use the recreational facilities during periods when their Lot is leased to and/or occupied by others.

2.5 Owner's Rights and Easements for Utilities: The rights and duties of the Owners of Lots within the Property with respect to sanitary sewer, drainage, water, electric, gas, television receiving, telephone equipment, cables and lines, exhaust flues, and heating facilities (hereinafter "utilities facilities") shall be as follows:

A. Whenever utilities facilities are installed within the Property, which utilities facilities or any portion thereof lie in or upon a Lot or Lots owned by other than the Owner of a Lot served by said utilities facilities, the Owners of any Lots served by such utilities facilities shall have the right of reasonable access for themselves or for utility companies to repair, to replace and generally maintain said utilities facilities as and when the same may be necessary, due to failure or inability of the Board to take timely action to make such repairs or perform such maintenance.

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B. Whenever utilities facilities are installed within the Property which utilities facilities serve more than one (1) Lot, the Owner of each Lot served by said utilities facilities shall be entitled to the full use and enjoyment of such portions of said utilities facilities as service his Lot.

C. In the event of a dispute between Owners with respect to the repair or rebuilding of said utilities facilities, or with respect to the sharing of the cost, upon written request of one (1) of such Owners addressed to the Association, the matter shall be resolved pursuant to alternative dispute resolution, in accordance with California Civil Code section 1354 or any comparable provisions of law.

2.6 Fence and Encroachment Easements: Certain fences installed by the Builder are not located on or about the boundary lines between the Lots as shown on the Map. Any Lot (including any Common area Lot) that is encroached by a fence installed by the Builder (or as subsequently replaced) is subject to an easement as the servient tenement in favor of the adjoining Lot as the dominant tenement for access to and use of the area on the servient tenement encompassed by the encroaching fence. Each Lot shall have an easement over adjoining Lots and Common area for the purpose of accommodating any encroachment due to foundations, exterior wall, windows, roof overhang and fences or walls which are built in accordance with the original design, plans and specifications of the Builder, or due to minor engineering errors, minor errors in original construction, settlement or shifting of the building, or similar causes. There shall be valid easements for the maintenance of the encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if the encroachment occurred due to the intentional conduct of the Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each adjoining Lot agree that minor encroachments over adjoining Lots and Common area shall be permitted and that there shall be valid easements for the maintenance of the encroachments so long as they shall exist.

2.7 Side Yard Easements:

A. Easements: In all cases where a structural wall of a residence that was built as part of the original construction is located on the boundary line between adjacent Lots, the Owner of the residence shall have a non-exclusive easement over the adjacent Lot for access to and maintenance of the wall, the reconstruction of the wall in the event of the partial or total destruction of the same, drainage associated with the wall or the residence of which the wall is a part, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the residence or residences on the Lot or Lots. The Owner of a Lot having a structural wall situated on the boundary line between his Lot and the adjoining Lot shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining Lot, and the Owner of the adjoining Lot upon which such a wall is situated shall not attach anything to the outside of the wall without (in each case) the written consent and permission of the Owner of the adjoining Lot upon which the residence of which the wall is a part is situated.

B. Alternative Dispute Resolution: In the event of any dispute concerning the above paragraph(s) the matter shall be resolved pursuant to alternative dispute resolution in accordance with California Civil Code section 1354 or any comparable provisions of law.

2.8 Party Walls:

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A. General Rules of Law to Apply: Each wall that is built as part of the original construction of a residence, is located on the boundary line with an adjacent Lot and either is used in common with the residence on the adjacent Lot or abuts against a similar wall on the adjacent Lot shall constitute a party wall. To the extent not inconsistent with this section 2.8, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

B. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall.

C. Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration in proportion to such use; provided, however, that the Owner or Owners whose negligent act or omission caused the damage or destruction, shall bear the full cost of restoration that is not covered by insurance.

D. Weatherproofing: Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Right to Contribution Runs with Land: The right of any Owner to contribution from any other Owner under this section 2.8 shall be appurtenant to the land and shall pass to such Owner's successors in title.

F. Alternative Dispute Resolution: In the event of any dispute concerning the above paragraph(s) the matter shall be resolved pursuant to alternative dispute resolution, in accordance with California Civil Code section 1354 or any comparable provisions of law.

2.9 Maintenance Easement: An easement over each Lot as the servient tenement is reserved by the Association, for the purpose of entering on the Property to perform such maintenance, if any, as the Association is required to do in accordance with the Governing Documents.

2.10 Front Yard Maintenance Easement: An easement over the front yard of each Lot is reserved by the Association, for the purpose of entering the front yard to maintain the landscaping, including the Heritage Trees.

2.11 Drainage Easements: An easement over and under each Lot is reserved by the Association, for the maintenance of an in-tract storm drainage system. Reciprocal appurtenant easements between each Lot and the Common area and between adjoining Lots are created for the flow of surface water. No Owner or occupant shall interfere with the flow of water to the catch basins located on the Property. Each Owner shall maintain any drainage channels or water flow courses located on the surface of the Owner's Lot free of obstacles and debris.

2.12 Lots 141 and 142 Easements: Lots 141 (1132 Carlos Privada) and 142 (1128 Carlos Privada), are burdened by the public service easement shown on the Map. No structures (other than fences or unsupported roof overhangs), trees, or deep rooted shrubs shall be installed in the area subject to the easement or in the area extending from the easement at the same width of the easement for twenty (20) feet into the adjacent Lot 131 (Association property outside masonry wall). If the City of Mountain View, in maintaining any storm or sewer lines located in the easement area, must remove any

improvements or landscaping in the easement area or the extended area into Lot 131, the Association, at its cost, shall restore the area after the City has completed its maintenance.

2.13 Lot 29 Easement: Lot 29 (1207 Christobal Privada) is burdened by ingress and egress and storm drainage easements as shown on the Map. The Builder installed a patio and patio cover in a portion of the area subject to the easement. If the City of Mountain View, in maintaining any storm or sewer lines located in the easement area, must remove any improvements or landscaping in the easement area, the Association at its cost, shall be responsible for replacing the improvements or landscaping after the City has completed its maintenance.

2.14 Other Easements: The Common area and each Lot are subject to all easements, dedications, and rights of way granted or reserved in, on, over and under the Property as shown on the Map.

2.15 Access Streets: The City of Mountain View may at any time require the Association to open the emergency access routes to Brookview Drive located on Lot 174 (Association property under electric transmission lines) between Lots 130 (1299 Cuernavaca Cir.) and 90 (1303 Cuernavaca Cir.) and to Greenview Drive located on Lot 174 between Lots 121 (1339 Cuernavaca Cir.) and 122 (1335 Cuernavaca Cir.) as shown on the Map for vehicular traffic if the City, in its sole discretion, determines that traffic conditions in the immediate vicinity of the Property require such additional access routes.

2.16 Rights of Entry and Use: The Lots and Common area (including restricted Common area) shall be subject to the following rights of entry and use:

A. The right of the Association to enter any Lot to cure any violation of the Governing Documents, provided that the Owner has received notice and a hearing as required by the Bylaws (except in the case of an emergency when notice and hearing are not required) and the Owner has failed to cure the violation or take steps necessary to cure the violation within thirty (30) days after the finding of a violation by the Association;

B. The access rights of the Association to maintain, repair or replace improvements or Property located in the Common area as described in section 5.2E;

C. The easements described in this Article II;

D. The right of the Association to enter any Lot to perform maintenance as described in section 8.6;

2.17 Partition of Common Area: There shall be no subdivision or partition of the Common area, nor shall any Owner seek any partition or subdivision.

Notwithstanding any provisions to the contrary contained in this Declaration and in order to provide for a means of terminating the Association if this should become necessary or desirable, on occurrence of any of the conditions allowing an Owner of a Lot to maintain an action for partition (as such conditions are presently set forth in California Civil Code §1359 or as such conditions in the future may be set forth in any amendment thereto or comparable provisions of law), two-thirds (2/3) of the Owners of Lots shall have the right to petition the Superior Court having jurisdiction to alter or vacate the recorded Subdivision Map of the Property under California Government Code §66499.21, et seq., or

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any comparable provisions of law, and to vest title to the Property in Owners as tenants in common and order an equitable partition of the Property in accordance with the laws of the State of California.

Nothing herein shall be construed to prohibit partition of a joint tenancy or co-tenancy in any Lot.

ARTICLE III

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Association to Own and Manage Common Areas: The Association shall own and manage the Common area in accordance with the provisions of the Governing Documents.

3.2 Membership: The Owner of a Lot shall automatically be a Member of the Association, and shall remain a Member until such time as his ownership ceases. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Membership shall be held in accordance with the Governing Documents.

3.3 Transferred Membership: Membership in the Association shall not be transferred, encumbered, pledged, or alienated in any way, except upon the sale or encumbrance of the Lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or Mortgagee, in the case of an encumbrance of such Lot. On any transfer of title to an Owner's Lot, including a transfer on the death of an Owner, membership passes automatically with title to the transferee.

Tenants who are delegated rights of use pursuant to a lease with an Owner do not thereby become Members, although the tenant and members of the tenant's family shall, at all times, be subject to the provisions of the Governing Documents.

A Mortgagee does not have membership rights until it obtains title to the Lot through foreclosure or deed in lieu of foreclosure. Any attempt to make a prohibited transfer is void. No Member may resign his membership. On notice of a transfer, the Association shall record the transfer on its books. In the event that the Owner of any Lot should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Lot, the Association shall have the right to record the transfer upon its books and any other membership outstanding in the name of the seller shall be null and void.

3.4 Membership and Voting Rights: Members of the Association shall all be Owners and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In addition, no more than one (1) member from such Lot may serve on the Board at any given time.

Actions requiring the approval of the Members shall require a majority of a quorum voting at an annual or special meeting, except for those actions by the Association which are specifically described in this document as requiring the vote or written assent of a majority of the total voting power of Members, and/or those specific actions described in this document which require more than a majority of the total voting power of Members. A quorum for such meetings shall be as defined in the Bylaws of the Association.

ARTICLE IV

MAINTENANCE AND ASSESSMENTS

4.1 Power to Assess: The Association shall have the power to establish, fix and levy Assessments against the Owners of Lots within the Association and to enforce payment of such Assessments in accordance with the Governing Documents.

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4.2 Creation of the Lien and Personal Obligation of Assessments: Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, agrees: (1) to pay to the Association Regular Assessments or charges, and Special Assessments for purposes permitted herein, such Assessments to be established and collected as hereinafter provided; and (2) to allow the Association to enforce any assessment lien by non judicial proceedings under a power of sale or by any other means authorized by law. The Regular and Special Assessments, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment is made, the lien to become effective upon recordation of a notice of delinquent assessment. Each such Assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation (joint and several) of each person who was the Owner of such property at the time when the Assessment fell due. No Owner of a Lot may exempt himself from liability for his contribution towards the Common expenses by waiver of the use or enjoyment of any of the Common areas or by the abandonment of his Lot. The personal obligations of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

4.3 Purpose of Assessments: The Assessments levied by the Association shall be used exclusively to (a) promote the economic interests, recreation, health, safety, and welfare of all Members or Lot Owners, (b) promote the enjoyment and use of the Properties by the Owners and their families, tenants, invitees, licensees, guests and employees, (c) to provide for the repair, maintenance, replacement and protection of the Common Area, and for landscaping and/or other items on Owners Lots which the Association is obligated to provide under the Governing Documents and, (d) any other duties required by law or the Governing Documents.

4.4 Regular Assessment:

A. Preparation of Annual Budget: Not less than 45 or more than 60 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's Expenses for the next fiscal year (including addition to the reserve fund) by preparing and distributing a budget to all Association Members.

B. Establishment of Regular Assessment: The total annual expenses estimated in the Association's budget (less projected income from sources other than Assessments) shall become the aggregate Regular Assessment for the next fiscal year, provided that, except as provided in paragraph (C) below, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum as defined in the Bylaws, casting a majority of the votes at a meeting of the Association. Failure by the Board to set Assessments shall not be deemed a waiver of the Assessments but rather the prior year's Assessment shall continue.

C. Assessments to Address Emergency Situations: The requirement of a membership vote to approve Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to Assessment increases necessary to address emergency situations. For this purpose, an emergency situation is any of the following:

- (1) An extraordinary expense resulting from an order of a court.
- (2) An extraordinary expense necessary to repair or maintain the Common Areas, or any portion of the separate interest which the Association is obliged to maintain where a serious threat to personal safety is discovered.

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(3) An extraordinary expense necessary to repair or maintain the Common Area, or any portion of the separate interest which the Association is obligated to maintain. Prior to the imposition or collection of an Assessment under this paragraph (3), the Board shall pass a resolution containing written findings as to the reason for the extraordinary expense and the necessity for the Assessment. The Board's resolution shall be distributed to the Members together with the notice of Assessment.

D. Membership Address: Each Owner must notify the Association, in writing, of its current name and address. The information maintained by the Association shall be deemed current, unless otherwise notified.

E. Installment Payment of Assessments: The Regular Assessment levied against each Owner and his or her Lot shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other days or dates as may be established from time to time by the Board of Directors.

4.5 Special Assessments:

A: Purpose of Special Assessments: The Board of Directors may levy Special Assessments for the following purposes:

(1) Regular Assessment Insufficient in Amount. If at any time the Regular Assessment for any fiscal year is insufficient due to expenses not contemplated in the budget, the Board of Directors shall levy and collect a Special Assessment, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations.

(2) Capital Improvements. The Board of Directors may levy Special Assessments for capital improvements within the Common area.

(3) Emergencies as defined in 4.4 C above.

B: Membership Approval: Except for Special Assessments to meet Emergencies, the aggregate of Special Assessments for a fiscal year may not exceed 5 percent of the budgeted gross expenses of the Association for that fiscal year without the vote or written approval of a majority of Members, constituting a quorum, casting votes at a meeting of the Association.

C: Payment of Special Assessments: Special Assessments shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within thirty (30) days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

4.6 Reserves: Association dues or Assessments shall provide for an adequate reserve fund for maintenance and replacement of the property in the Common area that must be replaced on a periodic basis. In addition to the Regular Assessments for operating expenses, the Board of Directors shall annually fix the amount to be contributed pro rata by each Member to the reserve fund for the purpose of defraying, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position. The Association shall prepare a Reserve Study and update it periodically as required by law to assist in determining the amount of reserve funds that should be on hand.. The Board shall maintain a separate "Reserve Account"

for those reserve funds. The Reserve Fund shall be used solely for maintenance and replacements of the property within the Common area..

Amounts received by the Association as contributions, Assessments or dues from the Owners shall be held in two (2) or more accounts.

4.7 Notice for Any Action Authorized Under Sections 4.4 and 4.5: Any action authorized under sections 4.4 and 4.5, which requires a vote of the membership, shall be taken at an annual meeting or at a special meeting called for that purpose, written notice of which shall be sent to all Members not less than ten (10) nor more than ninety (90) days in advance of the meeting, specifying the place, day and hour of the meeting and the nature of the business to be undertaken. The action may also be taken without a meeting pursuant to the provisions of California Corporations Code §7211(b) or any comparable provisions of law.

4.8 Division of Assessments: All Assessments, both Regular and Special, shall be charged to and divided among the Lot Owners equally.

4.9 Collection of Assessments: Enforcement of Liens:

A. Late Payment of Assessments: Any Assessment not paid within fifteen (15) days after the due date shall be delinquent, shall bear interest at the rate of twelve percent (12%) per annum from thirty (30) days after the due date until paid, and shall incur a late payment penalty in an amount to be set by the Board from time to time. Interest rates and/or payment penalties are not to exceed the maximum permitted by law.

B. Delinquent Assessments: In accordance with the requirements of US and California law, ordinances, regulations, or comparable superseding laws, and consistent with the Governing Documents and the custom and practice of the Association, the Association shall collect Delinquent Assessments from any Owner and impose a lien for nonpayment of Assessments. The remedies available to the Association to collect Assessments include, but are not limited to, the following: alternative dispute resolution, legal action and foreclosure. Fines and penalties for violation of restrictions are not "Assessments", and are not enforceable by assessment lien.

C. Recovery of Attorney's Fees and Costs: In any action or proceeding to collect Assessments, the Association shall recover its costs and attorney's fees.

4.10 Transfer of Lot by Sale or Foreclosure: Sale or transfer of any Lot shall not affect the assessment lien. However, the sale of any Lot pursuant to Mortgage foreclosure of a first Mortgage shall extinguish the lien of such assessments including attorney's fees, late charges, or interest levied in connection therewith as to payments which became due prior to such sale or transfer (except for assessment liens recorded prior to the Mortgage). No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien.

Where the Mortgagee of a first Mortgage of record or other purchaser of a Lot obtains title as a result of foreclosure of any such first Mortgage, such acquirer of title, his successor and assigns, shall not be liable for the Assessment by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer (except for assessment liens recorded prior to the Mortgage). (No amendment of the preceding sentence may be made without the consent of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and the

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consent of fifty-one percent (51%) of the Eligible mortgage holders.) The unpaid share of such Assessments shall be deemed to be Common expenses collectible from all Owners of the Lots including such acquirer, his successors or assigns.

In a voluntary conveyance of a Lot the grantee and the grantor shall be jointly and severally liable to the Association for all unpaid Assessments against the Lot for the grantor's share of the Common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Association, dated as of the record date of conveyance, setting forth the amount of the unpaid Assessments against the grantor 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.

4.11 Unallocated Taxes: In the event that any taxes are assessed against the Common area, or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under this Article and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE V DUTIES AND POWERS OF THE ASSOCIATION

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

A. Maintenance: The Association shall maintain and repair the following:

(1) The Common area, all improvements and landscaping, and all property owned by the Association, including without limitation, recreational facilities, the caretaker's residence on Lot 47, parking areas, walkways, driveways, private streets, irrigation systems, lighting fixtures, and utility, sewer or drainage systems not maintained by a public entity, utility company, or improvement district;

(2) Any fire protection equipment located in the Common area (maintenance shall include periodic testing), unless maintained and tested by a governmental entity, utility, water district or other similar entity;

(3) Landscaping the front yards of each Lot, including the maintenance of the Heritage Trees located in the front yards (maintenance shall include regular fertilization, irrigation and other garden management practice necessary to promote a healthy, weed free environment for optimum plant growth); and

(4) The Common area fences, including the fencing around the pool, the spas, and the tennis courts, the structure and exterior surface of the perimeter fencing located on or about the rear Lot lines of those Lots that abut Dale Avenue, Greenview Drive and Heatherstone Way, and the structure and interior surface facing the Common area of the stucco fences and iron fences bordering the greenbelt.

The Association shall maintain and operate the Common area in accordance with all applicable federal, state and municipal statutes and ordinances.

If the Association incurs any maintenance or repair costs because of the willful or negligent act or omission of any Owner or the Owner's agents, occupants, or invitees, and such cost was not covered by insurance maintained by the Association, the Association shall charge the responsible Owner who immediately shall pay the charge to the Association together with interest at the rate of twelve percent (12%) per annum (but not in excess of the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the charge is paid by the Owner, and costs (including reasonable attorney's fees).

If the Owner disputes the charge, the Owner shall be entitled to a notice and a hearing as provided in the Bylaws before the charge may be collected.

B. Insurance: The Association shall obtain and maintain the following insurance:

(1) A casualty policy insuring all improvements and fixtures owned by the Association, unless the Board in its sole discretion determines that such insurance is not necessary;

(2) A comprehensive public liability policy insuring the Association, its agents, and the Owners and occupants of the Lots and their respective family members, guests, invitees and agents against any liability incident to the Ownership or use of the Common area or any other Association owned or maintained real or personal property;

(3) Workers' compensation insurance to the extent required by law;

(4) Fidelity bonds or insurance covering officers, directors, and employees that have access to any Association funds;

(5) Flood insurance on Common area improvements if the Property is located in an area designated by an appropriate governmental agency as a special flood hazard area;

(6) Officers and directors liability insurance; and

(7) Such other insurance as the Board in its discretion considers necessary or advisable.

The amount, term and coverage of any policy required (including the type of endorsements, the amount of the deductible, the named insured, the loss payees, standard Mortgage clauses, and notices of changes or cancellations) shall satisfy the minimum requirements imposed for this type of Property by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor. If the FNMA or FHLMC requirements conflict, the more stringent requirement shall be met. If FNMA and FHLMC do not impose requirements on any policy required, the term, amount and coverage of such policy shall be no less than that which is customary for similar policies on similar properties in the area.

Each Owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including without limitation, representing the Owners in any proceeding, negotiation, settlement or agreement.

Any insurance maintained by the Association shall contain "waiver of subrogation" as to the Association and its officers, directors and Members, the Owners and occupants, the Lots and Mortgagees, and, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The Association shall periodically (and not less than once every three (3) years) review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

Each Owner shall obtain and maintain, at the Owner's sole expense, fire and casualty coverage as may be required by any Mortgagee of the Owner's Lot and in no event less than the amount and type of

fire and casualty insurance required to be obtained and maintained as determined by the Board. All such individually carried insurance shall contain a waiver of subrogation by the carrier as to the other Owners, the Association, and the Mortgagees of such Lot.

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 the liability 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 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 liability insurance will not be obtained or renewed.

C. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the Common area and charge the cost to the Member(s) responsible for the existence of the lien after notice and hearing as provided in the Bylaws.

D. Assessments: The Association shall fix, levy, collect and enforce Assessments as set forth in Article IV.

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

F. Enforcement: The Association shall enforce the Governing Documents.

G. Budget: The Association shall prepare an annual budget.

5.2 Powers: The Association shall have the responsibility of owning, managing and maintaining the Common Area and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all the powers of a non-profit mutual benefit corporation organized under the laws of the State of California in the ownership and management of its properties and the discharge of its responsibilities for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. In addition to the powers enumerated elsewhere in the Governing Documents, and without limitation of those powers stated, the Association shall have the following powers:

A. Utility Service: The Association shall have the authority (but not the obligation) to obtain, for the benefit of all the Owners, all water, gas and electric service and refuse collection.

B. Easements: The Association shall have authority (by majority vote) to grant easements in addition to those shown on the Map where necessary for utilities, cable television or other communication facilities and sewer facilities over the Common area to serve the Common areas and Lots.

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C. Manager: The Association may employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record or foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, shall provide for the right of the Association to terminate the same without cause or payment of a termination fee on ninety (90) days' written notice, or for cause on thirty (30) days' written notice.

The Association may hire a caretaker or guard for the Property and may, at its discretion, provide the caretaker or guard with the use of the caretaker's unit on Lot 47 at such rent as the Association deems appropriate, or may rent the caretaker's unit to any person.

D. Rule-Making Power: The Board may propose, enact and amend rules and regulations of general application to the Owners of Lots within the Properties. Such rules may concern, but need not be limited to (i) matters pertaining to maintenance, repair, management and use of the Common Area and common facilities by Owners, their tenants, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area and common facilities; (ii) architecture control; (iii) the conduct of disciplinary proceedings; (iv) regulation of parking, pet ownership and other matters subject to regulation and restriction; (v) collection and disposal of refuse; and (vi) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules and Regulations shall not be inconsistent with or materially alter any provision of the other Governing Documents or the rights, preferences and privileges of Members. In the event of any material conflict between any Association rule and any provision of other Governing Documents, the conflicting provisions contained in the other Governing Documents shall prevail.

A copy of the Association Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. A copy of the Association Rules and Regulations shall also be available and open for inspection during normal business hours at the principal office of the Association.

Association Rules and Regulations may be adopted or amended by majority vote of the Board, provided, however, that no Association Rules or amendments shall be adopted by the Board until at least thirty (30) days after the proposed rule or rule amendment has been (i) published in the Association newsletter, or otherwise communicated to the Owners in writing; and (ii) posted in the Association's principal office. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to be taken.

Any duly adopted rule or amendment to the Association Rules and Regulations shall become effective immediately following the date of adoption by the Board, or at such later date as the Board may deem appropriate. Any duly adopted rule or rule amendment shall be distributed to the Owners by mail.

E. Access: For the purpose of performing construction, maintenance or emergency repair for the benefit of the Common area or the Owners in common, the Association's agents or employees shall have the right, after reasonable notice (except in emergencies, not less than twenty-four (24) hours) to the Owner, to enter any Lot at reasonable hours. Such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Association at its own expense.

F. Assessments, Liens and Fines: The Association shall have the power to levy and collect Assessments in accordance with the provisions of Article IV hereof. The Association may impose

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finer or take disciplinary action against any Owner for failure to pay Assessments or for violation of any provision of the Governing Documents. Penalties may include but are not limited to fines, temporary suspension of voting rights, or other appropriate discipline, provided the Member is given notice and a hearing as provided in the Bylaws before the imposition of any fine or disciplinary action.

G. Enforcement: The Association shall have the power to enforce the Governing Documents.

H. Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of property shall be by document signed or approved by two-thirds (2/3) of the total voting power of the Members.

I. Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of two-thirds (2/3) of the total voting power of the Members, to mortgage, pledge, deed in trust, or hypothecate any or all its real or personal property as security for money borrowed or debts incurred.

J. Dedication: The Association shall have the power to dedicate, sell, or transfer all or any part of the Common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication shall be effective unless an instrument has been signed or approved by two-thirds (2/3) of the total voting power of the Members, agreeing to such dedication, sale or transfer.

K. Contracts: The Association shall have the power to contract for goods and/or services for the Common areas, facilities and interests or for the Association, subject to limitations set forth in the Bylaws, or elsewhere in the Governing Documents.

L. Delegation: The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

(1) To make expenditures for capital additions or improvements chargeable against the reserve funds.

(2) To conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Governing Documents.

(3) To make a decision to levy monetary fines, impose Regular or Special Assessments against individual units, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline.

(4) To make a decision to levy any Assessments.

(5) To make a decision to bring suit, record a claim of lien or institute foreclosure proceedings for default in payment of Assessments.

M. Use of Recreational Facilities: The Association shall have the power to limit the number of an Owner's tenants or guests who may use the recreational facilities, provided that all limitations apply equally to all Owners, unless imposed for disciplinary reasons, after notice and hearing.

N. Appointment of Trustee: The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce assessment liens by sale as provided in section 4.11 and Civil Code § 1367(b) or any comparable provisions of law.

O. Limitation on Liability of Association's Directors and Officers:

(1) Claims Regarding Breach of Duty. No director or officer of the Association (collectively referred to as the "Released Party") shall be personally liable to any of the Association's Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. Members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any duty, power or function so delegated by written instrument executed by a majority of the Board.

(2) Other Claims Involving Tortuous Acts and Property Damage. No person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) as a result of the tortuous act or omission of a volunteer member of the Board or volunteer officer of the Association shall recover damages from such Board member, or officer, if all the conditions of current law are satisfied.

**ARTICLE VI
ARCHITECTURE CONTROL**

6.1 Approval of Plans: No building, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, newspaper tubes, free standing mailboxes, carport, carport cover, trellis, improvement, or structure of any kind shall be commenced, installed, erected, painted or maintained upon the Property (except the initial installation by the Builder), nor shall any alteration or improvement of any kind be made to the exterior of any residence (including any exterior painting or siding or coating of stucco surfaces), until the same has been approved in writing by the Board, or by an Architecture Control Committee appointed by the Board. Alterations to exterior structures and architectural changes which alter building appearance, must be approved also by the Zoning Administrator of the City of Mountain View, in accordance with a definitive master plan for such improvements which has been approved by the Zoning Administrator in conjunction with the issuance of building permits for this Property. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the Board or to the Architecture Control Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the minimum building set back line. No permission or approval shall be required to rebuild in accordance with Builder's original plans and specifications as modified to comply with the most current building code. The construction schedule and conditions, however, are subject to approval by the Architecture Control Committee to insure that any disruption to the community during construction is at a reasonable minimum. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his residence, or to paint the interior of his residence any color desired. Notwithstanding the foregoing, no approval is required by the Architecture Control Committee or by the City Zoning Administrator (a building permit is required) to construct a trellis that conforms to

the plans and specifications attached as Exhibit "A" to this First Restated Declaration provided the trellis is located in the backyard, is at least five feet away from any property line, and covers no more than one-third (1/3) of the back yard area.

6.2 Architecture Control Committee Action: The Architecture Control Committee shall consist of three (3) Members. The Board shall have the power to appoint all Members of the Architecture Control Committee and shall have the power to fix their term of office and to remove them from office. Members appointed to the Architecture Control Committee by the Board shall be from the membership of the Association. A majority of the Architecture Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the successor shall be appointed by the Board. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant hereto. In the event the Committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with, except that prior City of Mountain View approval in accordance with section 6.1 and 6.4 shall be required in all circumstances. In the event that the Committee disapproves of the plans and specifications, the committee or a representative shall provide the Owner with the reasons for denial and provide an opportunity for the Owner to meet with the Committee or a representative to discuss the reasons for the denial as well as possible modifications to the request which would make it acceptable. If an agreement is reached, the Owner may then submit a revised plan. If any plan is denied, the Owner may appeal the decision of the Committee to the Board of Directors.

6.3 Landscaping: No landscaping of patios or yards or portions of Lots visible from the street or from any Common area shall be undertaken by any Owner until plans and specifications showing the nature, kind, shape, and location of the materials shall have been submitted to and approved in writing by the Architecture Control Committee, or the Board.

6.4 Governmental Approval: Before commencement of any alteration or improvements approved by the Architecture Control Committee, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction

6.5 Modifications to Approved Plans: Once a work of improvement has been duly approved by the Committee, no material modifications shall be made in the approved plans and specifications and no subsequent alteration, relocation, addition or modification shall be made to the work of improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material effect on other aspects or components of the work, the Board, in its discretion, may order the Owner, his or her contractors and agents to cease working not only on the modified component of the improvement, but also on any other affected component.

In the event that it comes to the knowledge and attention of the Association, its Architecture Control Committee, or the agents or employees of either, that a work of improvement, or any modification, is proceeding without proper approval, the Association shall be entitled to exercise its enforcement remedies, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of improvement until such time as proper approval is obtained.

6.6 Limitations on Liability: Neither the Association, its Architecture Control Committee, nor any other Member shall be liable to any Owner for any mistakes in judgment, negligence, or nonfeasance arising out of (a) the approval or disapproval of any plans, drawings and specifications, whether or not

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defective; and (b) the construction or performance of any work of improvement, whether or not pursuant to approved plans, drawings or specifications.

ARTICLE VII USE RESTRICTIONS

The use of the Property and each Lot therein is subject to the following:

7.1 Use of Lot: No Lot shall be occupied and used except for residential purposes by the Owners, their tenants, and social guests. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used on any Lot at any time as a residence, either temporarily or permanently.

There shall be no more than four (4) permanent residents in two (2) bedroom homes, six (6) permanent residents in three (3) bedroom homes, and eight (8) permanent residents in four (4) bedroom homes. Permanent resident means any person residing on a Lot for more than sixty (60) days in any consecutive twelve (12) month period. The number of bedrooms shall be determined from the original as built plans and specifications for the home.

No health care facilities operating as a business or charity and serving the sick, elderly, disabled handicapped or retarded shall be permitted in the Property if they serve seven or more persons.

No Lot or Lots or any portion thereof in the Property shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time sharing agreement, plan, program or arrangement, including, without limitation, any so called "vacation license", "travel club", "extended vacation", or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess the Lot or Lots or any portion thereof in the Property rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time of twenty-five (25) consecutive calendar days or less. Provided, this section shall not be construed to limit the personal use of any Lot or any portion thereof in the Property by any Lot Owner or his or her or its social or familial guests.

No activity shall be conducted on any Lot that would result in the cancellation of any insurance required to be maintained on any improvement in the Lot, or which would violate an applicable governmental law, ordinance or regulation.

No fire shall be permitted outside a residence except in a barbecue designed for that purpose.

7.2 Nuisances: No noxious, illegal, or offensive activities shall be carried out or conducted upon any Lot or Common Area nor shall anything be done within the properties which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including but not limited to, barking dogs, excessively noisy air conditioners, stereo amplifier systems, from an Owner's Lot or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the Common Area.

7.3 Vehicle Restrictions: No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pickup truck or standard size van), boat, inoperable automobile, or similar equipment

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shall be permitted to remain upon any area within the Property, other than temporarily, unless placed or maintained within an enclosed garage or carport. Commercial vehicles shall not include sedans (or standard size vans or pickup trucks) which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property. No unlicensed motor vehicles shall be operated upon the Property. No motor vehicle may be operated on the street except for ingress or egress (no joy riding, cruising, or racing).

Vehicles in violation of this section may be towed in accordance with law.

7.4 Parking: There shall be no parking in the Property other than in those areas specifically designated or designed for parking. All unassigned Common area parking spaces shall remain permanently available for guest parking on a first come, first serve basis, except that, the Association at its discretion may assign to any persons the exclusive use of any of the eleven Common area parking spaces located on Lot 174 between Lots 90 and 130 adjacent to Brookview Drive. Garage space may not be converted into any use (such as a recreational room or storage) that would prevent its use as a parking space for the number of vehicles the garage was designed to contain. Owners are to use their garage for parking of their vehicles so that Common area parking and driveways will be available for guest parking. The Association may establish rules and regulations from time to time for the parking of vehicles in driveways and in unassigned parking spaces in the Common areas. Use by Owners of any unallocated parking spaces must be established by the Association, and such use must be set forth in written notice from the Association. This permission will create only a license to use such parking spaces, revocable at any time by the Association with five (5) days' written notice.

7.5 Commercial Activity: No business, professional, or commercial activity of any kind which interferes with the residential atmosphere of the community shall be conducted on any Lot.

7.6 Storage

A. Common Area: Nothing shall be stored in the Common area without the prior written consent of the Board.

B. Driveways: Nothing (i.e. dumpsters) shall be placed or stored on a driveway, except for a permitted vehicle, without the prior consent of the Board.

7.7 Signs: No advertising signs or billboards shall be displayed on any Lot or posted within or upon any portion of the Common Area except Owners may post on their Lots any signs required for legal proceedings or "For Sale", "For Lease", or "For Rent" signs of reasonable dimensions, not to exceed five (5) square feet. The sign shall not be attached to the outside of the house or fence. It may be displayed in the window, or staked in the yard. A-frame or other directional signs of real estate brokers or others advertising a Lot for sale or lease shall be allowed only in strict compliance with the Governing Documents. The Board shall post such notices or signs within the Common Areas as may be required by law.

7.8 Animals: No farm animals, protected species, illegal species or dangerous animals of any kind shall be raised, bred, or kept on any Lot or in the Common area. Two (2) usual and ordinary household pets such as dogs or cats may be kept. No pet(s) shall be allowed in the Common area except as may be permitted by the rules of the Board. No Owner shall allow his or her dog(s) to enter the Common area unless on a leash except as may be permitted by the rules of the Board. Owners shall

prevent their pet(s) from soiling the Common area and shall promptly clean up any mess left by their pet(s). Owners shall be fully responsible for any damage caused by their pet(s).

7.9 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, and shall be screened from view from neighboring Lots, Common areas and streets. Containers placed out for pickup shall be left out only as long as reasonably necessary for such pickup.

7.10 Radio and Television Antennas: No external antennas, towers, poles or any structure to be used for the purpose of transmitting or receiving radio, television or related signals with the exception of equipment installed by a duly licensed cable television franchisee, or its successors or assigns, as approved by the Association, shall be installed, affixed, mounted or constructed on the Property so as to be visible to the public view or to another Lot Owner. No alteration to or modification of a central radio and/or television antenna system or cable television system, or other communication system, whichever is applicable, if developed by a franchisee, and as maintained by the Association or by a franchisee shall be permitted. All fees for the use of any cable television system, or other communication system, shall be borne by the respective Lot Owners, and not by the Association.

A small satellite antenna, satellite dish, off-the-air television antenna, multipoint distribution service (MDS) antennas, or other communication system, less than one meter is permitted, if it is not visible from any street, Lot, or Common Area. Screening of these devices is necessary to minimize visual intrusion.

7.11 Liability of Owners for Damage to Common Area: The Owner of each Lot shall be liable to the Association for all damage to the Common area improvements (including landscaping) caused by such Owner or the Owner's agents, occupants, invitees, or pets, except for that portion of damage covered by insurance carried by the Association. The responsible Owner shall be charged with the cost of repairing such damage (including interest thereon) as described in section 5.1A.

7.12 Leasing of Lots: No Owner shall be permitted to lease his Lot for any period less than thirty (30) days. Any lease agreement shall be required to provide that the term of the lease shall be subject in all respects to the provisions of the Governing Documents and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. Any Owner who shall lease his or her Lot shall be responsible for assuring compliance by the lessee with the Governing Documents. All leases shall be required to be in writing. Other than the foregoing, there is no restriction in the right of any Owner to lease his Lot. All Owners leasing or renting their Lots shall promptly notify the Secretary of the Association in writing of the names of all tenants and Members of tenant's family occupying such Lot and of the address and telephone number where such Owner can be reached.

7.13 Diseases, Animals, and Insects: No Owner shall allow any thing or condition to exist on his Lot which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

7.14 Machinery and Equipment: No machinery or equipment shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private residence or appurtenant structures within the Property.

7.15 Activities Affecting Insurance: Nothing shall be done or kept on any Lot or within the Common Area which will increase the cost of insurance, without the prior written consent of the Association and no Owner shall allow anything to be done or kept on his or her Lot or within the Common Area which would cause any improvements to be uninsurable against loss by fire or casualty or result in the cancellation or insurance on any residence or any part of the Common Area.

ARTICLE VIII GENERAL PROVISIONS

8.1 Enforcement: 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 the provisions of the Governing Documents, and in such action shall be entitled to recover reasonable attorneys' fees. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

8.3 Term: The covenants and restrictions of this Declaration shall run with and bind the property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from April 17, 1986, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners of the Lots, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part, or to terminate the same.

8.4 Amendments: This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total voting power of the Association. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed affirmative votes required for action to be taken under that clause. Any amendment must be certified in writing executed and acknowledged by the President or Vice President of the Association and recorded in the Recorder's Office of the County of Santa Clara. No amendment shall adversely affect the rights of the holder of any Mortgage of record prior to the recordation of such amendment.

No amendment to the following described sections shall be effective without the prior written approval of the City of Mountain View:

- (1) Section 2.1 concerning the design of certain systems in accordance with the Mountain View City Code;
- (2) Section 2.15 concerning the access streets;
- (3) Article IV and section 5.1 concerning assessment, lien rights, and maintenance obligations of the Association;
- (4) Sections 6.1 and 6.2 concerning the City's architectural approval rights;
- (5) Section 7.4 concerning the guest parking spaces requirements; and
- (6) Section 8.12 concerning age discrimination.

8.5 Rights of First Lenders: No breach of any of the covenants, conditions and restrictions contained herein, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first Mortgage (meaning a Mortgage with first priority over any other Mortgage) on any Lot made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or Trustee's Sale, or otherwise. Notwithstanding any provision in this Declaration to the contrary, First lenders shall have the following rights:

A. Copies of Association Documents: The Association shall make available to Lot Owners and First lenders, and to holders, insurers or guarantors of any first Mortgage, current copies of the Declaration, Bylaws, Articles and Rules concerning the Property and all records of the Association as required by current law.

B. Audited Statement: Any holder, insurer or guarantor of a first Mortgage shall be entitled, upon written request, to an audited financial statement for the immediately preceding fiscal year, free of charge to the party so requesting. Such statement shall be furnished within a reasonable time following such request.

C. Notice of Action: Upon written request to the Association, identifying the name and address of the Eligible mortgage holder or Eligible insurer or guarantor, and the Lot number or address, such Eligible mortgage holder or Eligible insurer or guarantor will be entitled to timely written notice of: (1) Any condemnation loss or any casualty loss which affects a material portion of the Property or any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible mortgage holder or Eligible insurer or guarantor, as applicable; (2) Any default in performance of obligations under the Governing Documents or delinquency in the payment of Assessments or charges owed by an Owner of a Lot subject to a first Mortgage held, insured or guaranteed by such Eligible mortgage holder or Eligible insurer or guarantor, which remains uncured for a period of sixty (60) days; (3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (4) Any proposed action which would require the consent of a specified percentage of Eligible mortgage holders as specified in section 8.5D. The Association shall discharge its obligation to notify eligible holders or Eligible insurers or guarantors by sending written notices required herein to such parties, at the address given on the current request for notice, in the manner prescribed by section 8.10.

D. Consent to Action:

(1) Except as provided by statute or by other provision of the Governing Documents in case of substantial destruction or condemnation of the Property:

a) The consent of Owners of Lots representing at least sixty-seven percent (67%) of the total voting power of the Association and the approval of sixty-seven percent (67%) of Eligible mortgage holders, shall be required to terminate the legal status of the Property as a planned unit development Property;

(b) The consent of Owners of Lots representing at least sixty-seven percent (67%) of the total voting power of the Association and the approval of at least fifty-one percent (51%) of Eligible mortgage holders, shall be required to add or amend any material provisions of the Governing Documents which establish, provide for, govern or regulate any of the following: (i) voting; (ii) Assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common area(s) (or Lots if applicable); (iv) insurance or fidelity bond; (v) rights to use of Common areas; (vi) responsibility for maintenance and repair of the several portions of the

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Property; (vii) expansion or contraction of the Property or the addition, annexation or withdrawal of Property (except as provided in paragraph D(1) above); (viii) boundaries of any Lot; (ix) the interests in the general or restricted Common areas; (x) convertibility of Lots into Common areas or of Common areas into Lots; (xi) leasing of Lots; (xii) imposition of any right of first refusal or similar restriction on the right of a Lot Owner to sell, transfer, or otherwise convey his or her Lot; (xiii) any provisions which are for the express benefit of Mortgage holders, Eligible mortgage holders, or Eligible insurers or guarantors of first Mortgages on Lots;

(c) An addition or amendment to such document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An Eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(2) Unless the holder(s) of at least two-thirds (2/3) of the first Mortgages (based upon one (1) vote for each first Mortgage or deed of trust owned), or two-thirds (2/3) of the Owners of the individual Lots in the Property have given their prior written approval, the Association and/or the Owners shall not be entitled to:

a) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common area or property owned directly or indirectly, by the Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such Property shall not be deemed a transfer within the meaning of this clause) except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty, or in the case of a taking by condemnation or eminent domain.

(b) Change the method of determining the obligations, Assessments or dues or other charges which may be levied against an Owner.

(c) By act or omission, change, waiver or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots, the exterior maintenance of Lots, the maintenance of the Common area walks or fences and driveways, or the upkeep of landscaping in the Common area.

(d) Fail to maintain fire and extended coverage on insurable Association Common area improvements 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).

(e) Use hazard insurance proceeds for losses to any Association common Property for other than the repair, replacement or reconstruction of such Common area Property.

E. Right of First Refusal: The right of a Lot Owner to sell, transfer, or otherwise convey his or her Lot shall not be subject to any right of first refusal or similar restriction.

F. Contracts: Any agreement for professional management of the Property, or lease or any other contract providing for services of the developer, sponsor, or builder, may not exceed one (1) year. Any such agreement, contract, or lease, must provide for termination by either party for cause on thirty (30) days' written notice, or without cause and without payment of a termination fee or penalty on ninety (90) days' or less written notice.

G. Priority of Liens: Any First lender who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Lot's unpaid Assessments and fees, late charges, fines or interest levied in connection therewith which accrue prior to the acquisition of title to such Lot by the Mortgagee (except for claims for a pro rata share of such

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Assessments or charges resulting from a pro rata reallocation of such Assessments or charges to all Lots including the mortgaged Lot, and except for assessment liens recorded prior to the Mortgage).

H. Distribution of Insurance or Condemnation Proceeds: No Owner or any other party shall have priority over any rights of First lenders pursuant to their Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for losses to or taking of Common area Property.

I. Restoration or Repair: Any restoration or repair of the Property, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by Eligible mortgage holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to Eligible holder mortgages.

J. Termination: Any election to terminate the legal status of the Property after substantial destruction or a substantial taking in condemnation of the Property must require the approval of Eligible mortgage holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to Eligible holder mortgages.

K. Reallocation of Interests: No reallocation of interests in the Common areas resulting from a partial condemnation or partial destruction of the Property may be effected without the prior approval of Eligible mortgage holders holding Mortgages on all remaining Lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Lots subject to Eligible holder mortgages.

L. Termination of Professional Management: When professional management has been previously required by any Eligible mortgage holder or Eligible insurer or guarantor, whether such entity became an Eligible mortgage holder or Eligible insurer or guarantor at that time or later, any decision to establish self management by the Association shall require the prior consent of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible mortgage holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to Eligible holder mortgages.

M. Payment of Taxes or Insurance by Lenders: First lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common area Property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common area Property and First lenders making such payment shall be owed immediate reimbursement therefore from the Association, provided that said lender(s) have given notice to the Association prior to the making of such payment(s) and the Association has failed to pay the same.

8.6 Owner's Right and Obligation to Maintain, Repair and Landscape: Except for those portions of the Property which the Association is required to maintain and repair, each Lot Owner shall, at his or her sole cost and expense, maintain and repair his Lot and all improvements and landscaping, keeping the same in good condition. The foregoing maintenance obligation, includes, without limitation, maintenance of exteriors, roofs, exterior walls, patios, walkways, fencing side and rear yard landscaping (including the Heritage Trees located therein) and all utilities lines or fixtures serving the Lot and located thereon, and keeping the driveways free of oil, grease, paint or other markings. Any fences located on or about the property lines between two (2) adjoining Lots shall be maintained by both Lot Owners, and the

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cost thereof shared equally. Any dispute between the Owners regarding this shared fencing shall be submitted to the Board for resolution, and the decision of the Board shall be conclusive and binding on the Owners. The Owners of Lots that abut Dale Avenue, Greenview Drive or Heatherstone Way shall maintain the interior surface of the perimeter fencing located on or about the rear Lot lines of these Lots.

Each Owner shall maintain the landscape of his or her Lot (including the front, rear and side yards) except for that maintained by the Association.

In the event an Owner of any Lot shall fail to maintain his Lot and the improvements thereon as required herein, the Association's agents may, after notice and a hearing as provided in the Bylaws, enter the Lot and perform the necessary maintenance. The cost of such maintenance shall immediately be paid to the Association by the Owner of such Lot, together with interest at the rate of twelve percent (12%) per annum (but not to exceed the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the cost is paid by the Owner.

In the event of an emergency, the Association's agents may (but without obligation) enter any Lot to protect common Property or any Heritage Trees located thereon on such prior notice as may be reasonable under the circumstances.

8.7 Damage or Destruction: If an improvement on any Lot other than a Common area Lot is damaged or destroyed by fire or other casualty, the Owner of such Lot shall repair or reconstruct the improvement in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction or as authorized by the Architecture Control Committee. The repair or reconstruction shall commence no later than ninety (90) days after the date of such damage or destruction, and shall be completed no later than one hundred eighty (180) days after such date, subject to delays that are beyond the control of the Owner. Notwithstanding the foregoing, the Owner immediately shall take such steps as may be reasonably required to secure any hazardous conditions resulting from the damage or destruction.

If any Common area improvement is damaged or destroyed by fire or other casualty, the improvement shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Architecture Control Committee, unless either of the following occurs: (1) The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement costs of all improvements, available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction, and three-fourths (3/4) of the total voting power of the Association residing in Members and their First lenders vote against such repair and reconstruction; or (2) Available insurance proceeds are not sufficient to substantially repair or reconstruct the improvement within a reasonable time as determined by the Board, a Special Assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in section 4.5, and the Board, without the requirement of approval by the Owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient moneys to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

If the Common area improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of \$50,000, the Board shall designate a construction consultant, a general contractor, and an architect for the repair or reconstruction. All insurance proceeds, Association moneys allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general contractor and architect certify within ten (10) days prior to any disbursement substantially the following:

A. That all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

B. That such disbursement request represents moneys which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, subcontractors, material men, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work and giving a brief description of such services and materials and the principle subdivisions or categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

C. That the sum then requested to be disbursed plus all sums previously disbursed does not exceed the cost of the work insofar as actually accomplished up to the date of such certificate;

D. That no part of the cost of the services and materials described in the foregoing paragraph A has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

E. That the amount held by the depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

If the cost of repair or reconstruction is \$50,000 or less, the Board shall disburse the available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

If the Common area improvement is not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among all Owners and their respective Mortgagees in the same proportion that the Owners are assessed, subject to the rights of the Owners' Mortgagees, after first applying the proceeds to the cost of mitigating hazardous conditions on the Property, making provision for the continuance of public liability insurance to protect the interests of the Owners until the Property can be sold, and complying with all other applicable requirements of governmental agencies. In the event of a failure to agree upon an appraiser, the appraiser shall be appointed by the then President of the Santa Clara County Bar Association.

8.8 Condemnation: If all or any part of a Lot (except the Common area) is taken by eminent domain, the award shall be disbursed to the Owner of the Lot subject to the rights of the Owners Mortgagees. If the taking renders the Lot uninhabitable, the Owner shall be divested of any further interest in the property, including membership in the Association, and the interests of the remaining Owners shall be adjusted accordingly. 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 Association 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 property shall be resurveyed to reflect such taking. The Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Lots are not valued separately by the condemning authority or by the court. The Association shall represent the Lot Owners in any condemnation proceedings or in

negotiations, settlements and agreements with the condemning authority for acquisition of the Common area[s], or part thereof.

8.9 Governing Documents Binding: All agreements and determinations lawfully made by the Association in accordance with the Governing documents shall be deemed to be binding on all Lot Owners, their successors heirs, personal representatives, grantees, tenants, and assigns.

8.10 Notice: Any notice permitted or required by the Governing Documents may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the Lot of such person if no address has been given to the Secretary.

8.11 Fair Housing. No Owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of his Lot to any person of a specified race, sex, adulthood, marital status, color, religion, ancestry, physical handicap, or national origin.

8.12 Age Discrimination: There shall be no discrimination against any person or persons having children in the sale, lease or rental of any unit, nor shall any person of any age be discriminated against in the use and availability of common facilities, services or other privileges associated with his or her occupancy of a unit. The City of Mountain View shall also be entitled to enforce this Section in any manner provided by law.

8.13 Conflicts in Governing Documents. In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles shall control; and in the case of any conflict between this Declaration and the Bylaws, the Declaration shall control.

THIS SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF CUERNAVACA HOMEOWNERS ASSOCIATION WHICH RESTATES AND COMPLETELY AMENDS THE DECLARATION IS EXECUTED BY THE SECRETARY OF THE ASSOCIATION.

CUERNAVACA HOMEOWNERS ASSOCIATION

By: Albert Zentil, esq
Secretary

I hereby certify and declare, under penalty of perjury, that the foregoing SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF CUERNAVACA HOMEOWNERS ASSOCIATION has been approved by the percentage of owners required by the Declaration.

Executed at MOUNTAIN VIEW, on this 23rd day of, JUNE 2007.

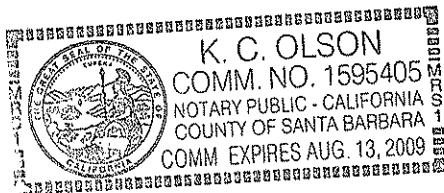
By: Albert Zentil, esq
Secretary

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF Santa Clara)

On 6/23/07, 1997, before me, R.C. Olson - Notary personally appeared Albert Rabinovitch 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 executed the same in his authorized capacity and that by his 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.



[Signature]

Handwritten: Rub 6/23/07