

BYLAWS

SHALIMAR MANOR CONDOMINIUM ASSOCIATION

A California Nonprofit Mutual Benefit Corporation

Rev. 9/2007

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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SHALIMAR MANOR CONDOMINIUM ASSOCIATION
A California Nonprofit Mutual Benefit Corporation

TABLE OF CONTENTS
PAGE i

ARTICLE 1: NAME & LOCATION	1
1.1 NAME.....	1
1.2 SPECIFIC PURPOSE.....	1
1.3 PRINCIPAL OFFICE.....	1
1.4 APPLICATION.....	1
ARTICLE 2: MEMBERSHIP OF ASSOCIATION	1
2.1 MEMBERSHIP.....	1
2.2 QUALIFICATION FOR MEMBERSHIP.....	1
2.3 TERM OF MEMBERSHIP.....	1
2.4 FURNISHING EVIDENCE OF MEMBERSHIP.....	1
2.5 TERMINATION / TRANSFER OF MEMBERSHIP.....	2
ARTICLE 3: MEMBERSHIP VOTING	2
3.1 MEMBERSHIP.....	2
3.2 TERMINATION / TRANSFER OF MEMBERSHIP.....	2
3.3 CLASSES OF VOTING MEMBERSHIP.....	2
3.4 EXCLUSION OF DECLARANT'S VOTE.....	2
3.4 VOTING RIGHTS.....	2
3.5 MANNER OF CASTING VOTES.....	3
3.6 PROXIES.....	3
3.7 SECRET BALLOT ELECTIONS.....	4
3.8 MEMBER APPROVAL.....	4
ARTICLE 4: MEETING OF MEMBERS	4
4.1 PLACE OF MEMBER MEETINGS; CONDUCT.....	4
4.2 ANNUAL MEETING OF MEMBERS.....	4
4.3 SPECIAL MEMBER MEETINGS.....	5
4.4 ACTION WITHOUT MEETING.....	5
4.5 NOTICE OF MEMBER MEETINGS.....	5
4.6 QUORUM.....	5
4.7 ADJOURNED MEETING.....	5
4.8 WAIVER OF NOTICE OR CONSENT OF ABSENTEES.....	6
4.9 RECORD DATES FOR MEMBER NOTICE; VOTING AND GIVING CONSENTS.....	6
ARTICLE 5: BOARD OF DIRECTORS	6
5.1 GENERAL.....	6
5.2 NUMBER; QUALIFICATIONS.....	6
5.3 NOMINATION OF DIRECTORS.....	7
5.4 ELIGIBILITY.....	7
5.5 ELECTION.....	7
5.6 TERM.....	8
5.7 REMOVAL.....	8
5.8 FILLING VACANCIES.....	8
5.9 COMPENSATION.....	8
5.10 POWERS AND DUTIES.....	9
5.11 LIMITATION ON POWERS.....	10
ARTICLE 6: MEETING OF DIRECTORS	11
6.1 REGULAR MEETINGS.....	11
6.2 SPECIAL MEETINGS.....	11
6.3 ORGANIZATIONAL MEETING.....	12
6.4 QUORUM.....	12
6.5 OPEN MEETINGS/NOTICE TO MEMBERS.....	12
6.6 ELECTRONIC PARTICIPATION IN MEETINGS.....	12
6.7 EMERGENCY MEETINGS.....	12
6.8 EXECUTIVE SESSION.....	12
6.9 ADJOURNMENT.....	12
6.10 ACTION WITHOUT A MEETING.....	12
6.11 BOARD DELIBERATION REGARDING MEMBER DISCIPLINE.....	13

SHALIMAR MANOR CONDOMINIUM ASSOCIATION
A California Nonprofit Mutual Benefit Corporation

TABLE OF CONTENTS
PAGE ii

6.12 MEETING MINUTES.	13
6.13 WAIVER OF NOTICE.....	13
ARTICLE 7: OFFICERS OF THE BOARD.....	13
7.1 ENUMERATION OF OFFICERS / DUTIES.	13
7.2 RESIGNATION AND REMOVAL.	14
7.3 COMPENSATION.	14
7.4 DELEGATION; CONFLICT.	14
ARTICLE 8: BOOKS AND RECORDS	14
8.1 REQUIRED BOOKS AND RECORDS.....	14
8.2 INSPECTION RIGHTS.	14
8.3 DOCUMENTS PROVIDED BY ASSOCIATION.	15
8.4 FINANCIAL DOCUMENTATION; PREPARATION, REPORTING AND REVIEW RESPONSIBILITIES.....	15
8.5 RECORDS DELIVERY TIMELINES.	16
8.6 DOCUMENTS & STATEMENTS TIMELINES.....	16
ARTICLE 9: RESERVES: STUDY & FUNDING.....	17
9.1 RESERVE STUDY.	17
9.2 RESERVE FUNDING & ACCOUNTS.	17
ARTICLE 10: MEMBER DISCIPLINE; HEARINGS	18
ARTICLE 11: DISPUTE RESOLUTION	18
11.1 DISPUTES RELATED TO ENFORCEMENT.	18
11.2 ALTERNATIVE DISPUTE RESOLUTION ("ADR").....	18
11.2.1 INTERNAL ADR PROCEDURES	18
11.2.2 EXTERNAL ADR PROCEDURES - PRE-LITIGATION.....	19
11.2.3 EXTERNAL ADR PROCEDURES - LITIGATION; POST-LITIGATION	19
ARTICLE 12: NON-LIABILITY AND INDEMNIFICATION.....	20
12.1 LIMITATION ON LIABILITY OF ASSOCIATION'S DIRECTORS AND OFFICERS.	20
12.2 INDEMNIFICATION OF ASSOCIATION.....	20
12.3 INDEMNIFICATION BY ASSOCIATION.....	20
12.4 APPROVAL OF INDEMNITY BY ASSOCIATION.	20
12.5 ADVANCEMENT OF EXPENSES.	20
ARTICLE 13: AMENDMENTS	21
ARTICLE 14: MISCELLANEOUS.....	21
14.1 DEFINITIONS.	21
14.2 CONFLICT.....	21
CERTIFICATION & EXECUTION	21

SHALIMAR MANOR CONDOMINIUM ASSOCIATION
A California Nonprofit Mutual Benefit Corporation

BYLAWS

ARTICLE 1: NAME & LOCATION

1.1 NAME.

The name of the association is SHALIMAR MANOR CONDOMINIUM ASSOCIATION, a California Nonprofit Mutual Benefit Corporation ("Association").

1.2 SPECIFIC PURPOSE.

The Association is an organization of subdivision interest owners created for the specific and primary purpose of repairing, maintaining, controlling and managing the Common Area and Common Facilities within that certain real estate common interest development located in the County of San Diego, State of California, and commonly referred to as SHALIMAR MANOR CONDOMINIUM ASSOCIATION; enforcing the Rules and Regulations which may from time to time be adopted by the Board of Directors as well as the terms and conditions of the Declaration; and otherwise enhancing and promoting the use and enjoyment of the Common Areas and Common Facilities by the Owners in common.

1.3 PRINCIPAL OFFICE.

The initial principal office of the Association shall be at such place within the County of San Diego, California that the Board of Directors may from time to time designate. The Board shall have the full power and authority to change the principal office of the Association from one location to another in the County of San Diego, California. Any such change shall be adopted by a resolution of the Board and noted in the meeting minutes.

1.4 APPLICATION.

These Bylaws provide for the governance and operation of SHALIMAR MANOR CONDOMINIUM ASSOCIATION and its Board of Directors and to all Members of the Association and all tenants, employees and other persons who use the facilities of the Project in any manner, in accordance with the provisions of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SHALIMAR MANOR CONDOMINIUM ASSOCIATION ("Declaration") recorded on _____, as Instrument No. _____ of Official Records of the County Recorder of San Diego County.

ARTICLE 2: MEMBERSHIP OF ASSOCIATION

2.1 MEMBERSHIP.

The Association is incorporated as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, the activities and affairs of which shall be administered and overseen by, and the power exercised under the direction of, a Board of Directors. The Association is created for the purpose of managing the Project and is charged with the duties and granted the powers prescribed by law and set forth in the Governing Documents.

2.2 QUALIFICATION FOR MEMBERSHIP.

Every Owner of a Unit shall be a Member of the Association. Ownership of a Unit or interest in it shall be the sole qualification for Membership in the Association. Persons or entities who hold an interest in a Unit merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Unit through foreclosure or deed in lieu thereof.

2.3 TERM OF MEMBERSHIP.

Each Owner shall be a Member of the Association until his/her ownership in all Units in the Properties ceases, at which time membership in the Association shall automatically cease.

2.4 FURNISHING EVIDENCE OF MEMBERSHIP.

If so requested, a Member shall provide the Association with evidence of qualification of membership in the form of a copy of a recorded grant deed (certified by the Office of the County Recorder).

2.5 TERMINATION / TRANSFER OF MEMBERSHIP.

Membership shall automatically cease when the Owner no longer holds an Ownership interest in a Unit. Memberships shall be appurtenant to the Unit conveyed and cannot be transferred, assigned, partitioned, conveyed, hypothecated, pledged or alienated except as part of a transfer of the Owner's entire Ownership interest, and then only to the transferee. Any transfer of title to a Unit shall automatically transfer the appurtenant Membership to the transferee.

ARTICLE 3: MEMBERSHIP VOTING

3.1 MEMBERSHIP.

The Association is incorporated as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, the activities and affairs of which shall be administered and overseen by, and the power exercised under the direction of, a Board of Directors. The Association is created for the purpose of managing the Project and is charged with the duties and granted the powers prescribed by law and set forth in the Governing Documents.

3.2 TERMINATION / TRANSFER OF MEMBERSHIP.

Membership shall automatically cease when the Owner no longer holds an Ownership interest in a Unit. Memberships shall be appurtenant to the Unit conveyed and cannot be transferred, assigned, conveyed, hypothecated, pledged or alienated except as part of a transfer of the Owner's entire Ownership interest, and then only to the transferee. Any transfer of title to a Unit shall automatically transfer the appurtenant membership to the transferee.

3.3 CLASSES OF VOTING MEMBERSHIP.

Association shall have two (2) classes of voting membership, as follows:

Class A Membership. Class A Members shall be all Unit Owners with the exception of Grantor for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for each Unit owned which is subject to assessment, as is further provided in the Declaration.

Class B Membership. Class B Member shall be Declarant. Class B Membership shall be entitled to three (3) votes for each Unit owned by Declarant, provided that the Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (i) When the total votes outstanding the Class A Membership equal the total votes outstanding in the Class B Membership; or
- (ii) A prescribed date which is not later than the second anniversary of the first conveyance of a subdivision interest in the development.

Upon the expiration of Class B membership, with respect to each provision of these Bylaws requiring the vote of both classes of membership, the same shall be read as requiring the affirmative vote or written consent of the prescribed percentage of the total voting power of the Association and of the prescribed percentage of the total voting power of the Class A membership votes other than the votes attributable to the Declarant.

3.4 EXCLUSION OF DECLARANT'S VOTE.

Any provision in the Articles, Bylaws, or Declaration providing for the exclusion of the vote of the Declarant in any matter to be determined, excepting those provisions pertaining to enforcement of any bonded obligation on behalf of the Declarant and amendments to the governing instruments, shall be applicable only upon the following:

- (i) If a two-class membership exists, the vote or written assent of a bare majority of the Class B voting power as well as the vote or written assent of a prescribed majority of the Class A voting power; or
- (ii) If single class of voting membership exists by the conversion of Class B to Class A shares, the vote or written assent of a bare majority of the total voting power of the Association as well as the vote or written assent of a prescribed majority of the total voting power of members other than the Declarant.

Notwithstanding the foregoing, and with the exception of §2792.4 of California Code of Regulations, nothing herein which requires the approval of a prescribed majority of the voting power of members of the Association other than Declarant is intended to preclude Declarant from casting votes attributable to the any Unit Declarant continues to own.

3.4 VOTING RIGHTS.

- (a) When there is more than one record Owner of a Unit (co-owners), all of the co-owners shall be Members, but only one of them shall be entitled to cast the single vote attributable to the Unit. Co-owners may designate in writing one of the

Owners to vote. If no such designation is made or if it is revoked, the co-owners shall decide among themselves, by majority vote, how that Unit's vote is to be cast. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for the Unit on a particular matter if a majority of the co-owners present in person or by proxy cannot agree on a vote.

- (b) Any provision of the Governing Documents that requires the approval of a specified percentage of the voting power of the Association shall require the approval of the specified percentage of the voting power of the membership. If no percentage of the voting power is specified in the Governing Documents or by California law, the approval of a majority of a quorum shall be required.
- (c) Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval. In order to be in good standing, a Member must be current in the payment of all assessments levied against the Member's Unit and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the Governing Documents. A Member's good standing shall be determined as of the record date established in accordance with these Bylaws. The Association shall not be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of assessments, although a delinquent Member shall be entitled to request such a hearing in accordance with these Bylaws.
- (d) A Member shall maintain good standing if his or her standing has not been suspended by the provisions of these Bylaws and the Member has maintained a current filing with the Association of the following: (1) the signature or signatures of the Owners authorized to vote on behalf of the Member's Unit; and (2) the address to which all notices shall be sent; or, alternatively, (3) a proxy that names the Owner's representative and lists that representative's address.

3.5 MANNER OF CASTING VOTES.

In addition to voting in person or by proxy at a meeting, Members' votes may be solicited by written ballot with respect to any issue other than the election of Directors. Any action that may be taken by vote of the members at a regular or special meeting, except the election of governing body members where cumulative voting is a requirement, may be taken without a meeting provided the following written ballot requirements are satisfied pursuant to *Corporations Code* §7513. Any action that may be taken by vote of the Members at a Regular or Special Meeting, except the election of governing body Members where cumulative voting is a requirement, may be taken without a Meeting provided the written ballot requirements are satisfied pursuant to *Corp. Code* §7513.

3.6 PROXIES.

- (a) Every proxy shall be revocable and shall automatically cease upon conveyance of Maker's Membership, or upon receipt of written notice by the Secretary of the Maker's death or judicially declared incapacity. No proxy shall be valid after the expiration of eleven (11) months from its date of execution, unless otherwise provided in the proxy, but in no event may the maximum term of any proxy exceed three (3) years from its date of execution. The Maker of a proxy may revoke it by delivering a written revocation to the Association, by executing a subsequent proxy and presenting it to the Meeting, or by attending any Meeting and voting in person.
- (b) Voting by proxy shall comply with all applicable requirements of *Corp. Code* §7514 and §7613. Notwithstanding the foregoing, any form of proxy or written ballot distributed by any person or entity to the Membership shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted on, except it shall not be mandatory that a candidate for election to the Board of Directors be named in the proxy or written ballot. The proxy or written ballot shall provide that, when the Member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the person(s) authorized to exercise the proxy.
- (c) Any proxy instruction to the proxy holder must be on a separate sheet of paper from the proxy itself.
- (d) Any proxy may not be used to vote on any of the following matters unless it sets forth the general nature of the matter to be voted upon:
 - (1) Removing a Director without cause, pursuant to these Bylaws;
 - (2) Filling Director vacancies pursuant to these Bylaws;
 - (3) Entering into or approving a contract or transaction between the Association and one or more of the Directors, or between the Association and any entity in which one or more of the Directors has a material financial interest, except as allowed by *Corp. Code* §7233;
 - (4) Amending the Articles after approval by the Board, in accordance with *Corp. Code* §7812;
 - (5) Electing to dissolve the Association, by approval of a majority of all Members or by approval of both the Board and Members pursuant to *Corp. Code* §8610;

- (6) Amending the Articles or Bylaws to repeal, restrict, create, or expand proxy rights;
- (7) Disposing of assets other than in the usual regular course of corporate activities pursuant to *Corp. Code* §7911(a)(2).
- (8) Agreements for corporate merger and amendments thereof in accordance with the provisions of *Corp. Code* §§8012 and 8015(a).

3.7 SECRET BALLOT ELECTIONS.

- (a) Members shall receive and cast secret ballots as follows:
 - (1) Ballots and two pre-addressed envelopes with instructions on how to return ballots must be mailed by first-class mail or delivered to every Member not less than thirty (30) days before the voting deadline.
 - (2) Voters may not be identified by name, address, or Unit number on the ballot.
 - (3) The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed.
 - (4) In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and Unit number that entitles him/her to vote.
 - (5) The second envelope is addressed, and either mailed or delivered by hand, to the Inspector of Election who tallies the votes. Members may request a receipt upon delivery to the Inspector.
- (b) All votes must be counted by the Inspector in an open meeting off the Board or Owners.
- (c) Any Owner may witness the counting of ballots; provided that no one may open a secret ballot before all the ballots are counted.
- (d) The results must be promptly reported to the Board, recorded in the Minutes of the next Board Meeting and be made available for review by the Members.
- (e) Within 15 days of the election, the Board must notify all Owner of the results of the election.
- (f) The ballots must remain in the custody of the Inspector until they are counted and then delivered to the Association for storage for no less than one year.
- (g) In the event of a challenge, the Association shall make the ballots for available for inspection by the Owners or their authorized representatives.

3.8 MEMBER APPROVAL.

- (a) "Approval by (or approval of) a majority of all Members" means approval by an affirmative vote or written ballot of a majority of the votes entitled to be cast, as further provided pursuant to *Corp. Code* §5033.
- (b) "Approval by (or approval of) the Members" means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held Meeting at which a quorum is present, as further provided pursuant to *Corp. Code* §5034.

ARTICLE 4: MEETING OF MEMBERS

4.1 PLACE OF MEMBER MEETINGS; CONDUCT.

All meetings of the Members shall be held at the principal office of the Association or a place designated by the Board which shall be as close to the Project as reasonably possible. If no meeting place is designated, the meetings shall be held at the principal office of the Association. No meeting of the Members shall, unless unusual conditions exist, be held outside of San Diego County, California. Meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Board may adopt by resolution.

4.2 ANNUAL MEETING OF MEMBERS.

The first Annual Meeting of Members shall be held at the earlier of the following: (i) Within forty-five (45) days after fifty-one (51%) of the escrows for the sale of all Units in the Project have closed or (ii) Within six (6) months after the close of escrow for the sale of the first Unit within the Project. Thereafter, the Annual Meeting shall be held on or about the anniversary date of the first Annual Meeting or at such date and time as the Board may otherwise determine. The results of the secret ballot for the election of the Board of Directors shall be announced at the Annual Member Meeting. The Members may transact such other business of the Association as may properly come before them.

4.3 SPECIAL MEMBER MEETINGS.

Special meetings of the members may be called for any lawful purpose by a majority of a quorum of the Board, the President of the Association, or by a written request signed by Members representing at least five percent (5%) of the total voting power of the Association. The special member meeting shall be held not less than thirty-five (35) nor more than ninety (90) days after adoption of the resolution or receipt of the request by an officer of the Association. Only that business stated in the Special Meeting Notice shall be conducted at a special meeting of the members.

4.4 ACTION WITHOUT MEETING.

Any action that may be taken by the vote of Members at a Regular or Special Meeting, except the election of Directors, may be taken without a meeting if, in compliance with the provisions of *Corp. Code* §7513, a ballot is distributed to every Member entitled to vote on the matter. Such ballot shall set forth the proposed action (including any known contrary opinions), provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time frame within which to return the ballot to the Association. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a Meeting authorizing such action, and the number of approvals equals or exceeds the number of votes required. All soliciting ballots shall indicate the number of responses needed to meet the quorum requirement and shall state the percentage of approvals necessary to pass the measure submitted.

4.5 NOTICE OF MEMBER MEETINGS.

Written notice of any member meeting to each Member of record in accordance with the following:

- (a) Except as otherwise provided in this Article, the notice shall be given at least ten (10) but not more than ninety (90) days before the meeting, by first-class mail or by personal delivery or in accordance with *Corporations Code* §5016 and any other successor statute related thereto.
- (b) The notice shall be addressed to each Member at the address appearing on the books of the Association or the address supplied by the Member to the Association for this purpose. If there is no such address, notice shall be given at the principal office of the Association. When there is more than one (1) record Owner of a Unit ("Co-Owners"), only one of them shall be entitled to notice under this provision. It shall be up to the Co-Owners to designate the Member entitled to notice and, failing to do so, then it shall be provided to the first name listed on the Association's records for said Unit.
- (c) The notice shall state the place, date and time of the meeting. If Directors are to be elected at the meeting, the notice shall include the names of all those who are nominees at the time the notice is given. The notice shall also state those matters that the Board, at the time the notice is given, intends to present for action by the Members.
- (d) In the case of a Special Meeting called by Members, the notice shall be given not more than twenty (20) days after receipt of the request for the meeting and shall state the purpose(s) for which the meeting is called. If that twenty (20) day requirement is not satisfied, the Members who called the meeting may give the notice.
- (e) Any action requiring approval of the Members, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the matter to be voted upon was stated in the notice of meeting or any written waiver of notice.
- (f) A certificate or declaration of the mailing, or other means of giving any notice of any members' meeting, may be executed by the Secretary or the managing agent and, if so executed, shall be filed with the corporate records or made a part of the Minutes of the meeting. Such certificate or declaration shall constitute prima facie evidence of the giving of notice.

4.6 QUORUM.

At any meeting, the presence - either in person or by proxy - of Members entitled to cast votes equal to at least fifty-one percent (51%) vote of all Members of the Association shall constitute a quorum for any action except as otherwise provided in the Articles, these Bylaws or the Declaration. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum, as long as the action taken (other than adjournment) is approved by at least a majority of Members required to constitute a quorum.

If a quorum is not present at a duly called meeting, a majority of those Members present in person or by proxy may adjourn the meeting pursuant to Section 4.7, below. The quorum for any adjourned meeting shall be twenty-five percent (25%).

4.7 ADJOURNED MEETING.

If a quorum is not present at a duly called meeting, a majority of those Members present in person or by proxy may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the meeting date, but no other business may be transacted. Provided that the date, time and place of the adjourned meeting is announced at the original meeting, the adjourned meeting may be held without additional written notice. If no such announcement is made, or if the selected date is changed after

adjournment, notice of the time and place shall be given to Members in the manner provided in these Bylaws.

4.8 WAIVER OF NOTICE OR CONSENT OF ABSENTEES.

The transactions of any meeting of Members, however called and noticed, shall be as valid as though taken at a duly called, noticed and held meeting, if a quorum is present either in person or by proxy and, if either before or after the meeting, each of the Members not present in person or by proxy (i) signs a written waiver of notice, (ii) a consent to the holding of the meeting or (iii) an approval of the Minutes of the meeting. Any such waiver, consent, or approval shall be filed with the corporate records or made a part of the Minutes of the meeting.

Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person objects at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice.

Attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting which are required to be described therein if that objection is expressly made at the meeting.

4.9 RECORD DATES FOR MEMBER NOTICE; VOTING AND GIVING CONSENTS.

For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting, or exercise any rights in respect to any other lawful action, the Board of Directors may fix, in advance, a "record date" and only Members of record on the date so fixed are entitled to notice, to vote, or to take action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any Membership on the books of the Association after the record date, except as otherwise provided in the Articles of Incorporation, by agreement, or in the *California Nonprofit Mutual Benefit Corporation Law*.

Unless as may otherwise be established by the Board, the record dates pursuant to this section shall be as follows:

- (i) **Record Date for Notice of Meetings.** In the case of determining those Members entitled to notice of a meeting, the record date shall be no more than 90 nor less than 10 days before the date of the meeting or, if notice is waived, the business day preceding the day on which the meeting is held;
- (ii) **Record Date for Voting.** In the case of determining those Members entitled to vote at a meeting, the record date shall be no more than 60 days before the date of the meeting;
- (iii) **Record Date for Action by Written Ballot Without Meeting.** In the case of determining Members entitled to cast written ballots, the record date shall be no more than 60 days before the day on which the first written ballot is mailed or solicited; and
- (iv) **Record Date for Other Lawful Action.** In the case of determining Members entitled to exercise any rights in respect to other lawful action, the record date shall be no more than 60 days prior to the date of such other action.
- (e) **"Record Date" Means as of Close of Business.** A person holding a Membership as of the close of business on the record date shall be deemed the Member of record.

ARTICLE 5: BOARD OF DIRECTORS

5.1 GENERAL

The activities and affairs of this Association shall be administered and overseen by, and the powers of the Association exercised under the direction of, a Board of Directors. The Board may delegate the management activities to any management company or managing agent, provided, however, that the activities and affairs of the Association shall be directed, overseen, and managed, and the corporate powers exercised, under the ultimate direction of the Board.

5.2 NUMBER; QUALIFICATIONS.

The affairs of this Association shall be managed and its duties and obligations performed by an elected Board consisting of a minimum of three (3) persons, each of whom. Except for those Directors appointed by the Declarant, all Members of the Board must be Members of the Association and meet all the eligibility requirements set forth in these Bylaws.

The initial Directors shall be appointed by the Declarant and shall hold office until the first Annual Meeting described in these Bylaws and until their successors are elected, upon which time - and for so long thereafter as a majority of the voting power of the Association resides in the Developer, or so long as there are two outstanding classes of membership in the Association - not

less than twenty (20%) percent of the incumbents on the Board shall have been elected solely by the votes of owners other than the Developer.

5.3 NOMINATION OF DIRECTORS.

Nominations for election to the Board may be made by any of the following:

- (a) A nominating committee, consisting of a chairman who shall be a Member of the Board, and two (2) or more Members, which committee shall be appointed by the Board at least ninety (90) days prior to the Annual Meeting, provided the Board receives the committee's nomination(s) at least forty-five (45) days prior to the Annual Meeting;
- (b) A written petition signed within eleven (11) months preceding the Annual Meeting representing fifteen percent (15%) of the voting power of the Association. The petition shall identify the nominee, contain that person's written consent to serve as a Director and be delivered to the Secretary of the Association at least thirty (30) days prior to the Annual Meeting;
- (c) Any Member who is present in person or by proxy, who makes a nomination from the floor at the Annual Meeting of Members at which the Director is to be elected, provided that said nominee is present and consents to the nomination; or
- (d) The Board, which may make nominations at any time.

5.4 ELIGIBILITY.

Pursuant to the provisions of *Civil Code §1363.03*, as may be amended or repealed, the following rules shall apply to ensure fair elections:

- (a) All candidates for election shall have equal access to Association media, newsletters, and internet web-sites for campaign purposes, whether or not such candidate is supported by the Board;
- (b) All candidates shall have equal access to common area meeting space for campaign purposes;
- (c) Must be a Member in good standing as that term is defined in these Bylaws;
- (d) Except for those Directors appointed by the Declarant, candidates for nomination for election to the Board of Directors shall meet the following minimum standards in order to qualify to be a Board Member:
 - (1) Own a minimum twenty-five percent (25%) interest in his/her Unit either as a fee-simple owner or, if ownership is in the form of a trust or business entity, a minimum twenty-five percent (25%) beneficial interest in the trust or business entity. The Board may establish rules, regulations and procedures from time to time to assist the Nominating Committee in verifying this eligibility requirement of beneficial interests in trusts or business entities; and
 - (2) Must be the only Member of the Unit running for election to the Board of Directors and/or serving on the Board of Directors. The nominating committee shall verify that all candidates meet the eligibility standards set forth in this Section. However, any candidate determined by the nominating committee to not meet the eligibility standards may appeal the committee's decision to the Board of Directors, but must do so in writing and no later than ten (10) days after the Committee mails or delivers its ruling to the candidate.
- (e) Membership voting for election to the Board of Directors shall be in accordance with those provisions set forth in Article 3 of these Bylaws.
- (f) The Board of Directors shall select one (1) independent third-party to serve as an Inspector of Election. Such Inspector may include, but not be limited to, a volunteer pool worker with the County Registrar of Voters, a licensee of the California Board of Accountancy, or a notary public, Association's legal counsel or Association's Property Manager, provided however, that no Director or person who is a candidate for the Office of Director shall be appointed as such inspector. The Inspector, before entering upon the discharge of their duties as provided for pursuant to *Civil Code §1363.03(c)(3)*, shall faithfully execute the duties of inspector at such meeting with strict impartiality and according to the best of their ability.

5.5 ELECTION.

Cumulative: At each Annual Meeting of the Association, the Members shall fill, by election, all vacant positions on the Board. However, if an annual meeting is not held or does not include an election, the election may be held at a special meeting of members called for that purpose. Voting for Directors shall be by secret written ballot. Each Member entitled to vote at any election of Directors where two or more positions are to be filled shall have the right to cumulate his or her votes by giving one candidate a number of votes equal to the number of Directors to be elected, multiplied by the number of votes to which the Member is entitled, or by distributing his or her votes on the same principle among as many candidates as he or she desires. No Member shall be entitled to cumulate votes unless (i) the candidate's name or candidates' names have been placed in nomination before the voting, and (ii) a Member has given notice at the meeting, and before the voting, of the Member's intention to

cumulate the Member's votes. If any one Member has given such notice, all Members may cumulate their votes for candidates in nomination. The nominees receiving the highest number of votes up to the number of Directors to be elected shall be elected as Directors and shall take office immediately following their election. In the event that there is a tie vote between those nominees who receive the lowest number of votes necessary to be elected, the tie shall be broken by lot. Each Member shall be entitled to his/her/its respective voting rights for each Unit owned within the Project.

5.6 TERM.

Except for members of the Board of Directors appointed by the Declarant, each Board Member shall serve for a two (2) year term on a staggered basis, with one (1) Director being elected in odd numbered years and two (2) Directors elected in even numbered years. Each Director shall hold office until the election of his/her successor or until the Director's death, resignation, removal or judicial adjudication of mental incompetence. Directors shall be elected at each Annual Meeting.

5.7 REMOVAL.

Except with respect to Directors appointed by the Declarant, any Director may be removed from office by:

- (a) A Director elected solely to office by the votes of members of the Association other than the Declarant shall be removed from office prior to the expiration of his/her term of office only by the vote of at least a simple majority of the voting power residing in the Members other than the Declarant.
- (b) Directors appointed by the Declarant may be removed and replaced at any time at the discretion of the Declarant.
- (c) A two-thirds vote of all Directors entitled to elect such Director on the occurrence of any of the following events:
 - (1) The Director is declared of unsound mind by a final order of Court;
 - (2) The Director is convicted of a felony; or
 - (3) The Director has failed to attend three (3) regular Board meetings in any 12-month period; or
 - (4) The Director has become delinquent in the payment of any assessment for a period in excess of forty-five (45) days. In this regard, the Director shall first be given a minimum of fifteen (15) days' written notice to pay such delinquency, and only upon the failure of such Director to pay such delinquency shall the Board declare vacant the office of such Director.
 - (5) The Director fails to meet the eligibility requirements set forth in these Bylaws.
- (d) The Board, on a majority vote of at least two (2) Directors, may declare vacant the office of a Director.
- (e) One or more Director(s) may be removed prior to the expiration of their term, without cause, at an Annual or Special Meeting of the Members. Any removal without cause shall be approved by the vote of Members representing a majority of a voting power of the Membership. However, unless the entire Board is removed, an individual Director shall not be removed prior to the expiration of his/her term of office if the number of votes cast against his/her removal is sufficient to elect the Director if voted cumulatively at an election at which time the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Directors were then being elected. On any vote for the removal of more than one Director, Members shall be entitled to cumulate their votes.

5.8 FILLING VACANCIES.

Any vacancies occurring on the Board of Directors shall be filled by:

- (a) A vote of majority of the Directors elected by the Class A voting members, if such Director was elected by the Class A voting members,
- (b) A vote of a majority of the Directors elected by the Class B voting members, if such Director was elected by the Class B voting members, or
- (c) By a two-thirds vote of all Directors if the vacancy is of a Director elected by the Directors as a whole.

The remaining Directors shall fill any vacancy on the Board caused by the death, removal or resignation of a Director unless the vacancy is created by the removal of a Director by the Members. A successor Director shall serve for the remaining term of the Director being replaced.

5.9 COMPENSATION.

No Director shall receive any compensation for any service he or she may render to the Association; provided, however, that a Director may be reimbursed for actual out of pocket expenses incurred by the Director in the performance of his or her duties.

5.10 POWERS AND DUTIES.

The Board shall exercise for the Association all powers and duties vested in or delegated to the Board or the Association by the Governing Documents and the *Corporations Code* governing nonprofit mutual benefit corporations. Said powers and duties shall be subject to the limitations of the Governing Documents and shall include, but not be limited to, the following:

- (a) The power to establish, fix, levy, collect and enforce the payment of Assessments and against the Owners in accordance with the procedures set forth in this Declaration.
- (b) The power to borrow money and incur indebtedness for the purposes of the Association and to cause to be executed and delivered therefore, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefore, with the vote or the written consent of two-thirds (2/3) of the voting power of the Membership.
- (c) The power to fix and establish the fiscal year for the Association, including the power to modify the fiscal year.
- (d) Authorizing withdrawal of monies from the Association's operating and reserve accounts, upon the signatures of two (2) Directors;
- (e) Filling vacancies on the Board, except for a vacancy created by the removal of a Director by Members;
- (f) By majority approval of the Board, extending the time for return of ballots when an action is taken without a meeting;
- (g) Preparation of budgets and financial for the Association as prescribed in the Governing Documents;
- (h) The power to create and delegate its powers to committees pursuant to resolutions adopted by a majority of the Board; provided that if a committee will exercise any power or authority of the Board, it shall consist of two (2) or more Directors, and as many other Members as the Board may designate, to serve at the pleasure of the Board. No Directors need serve on any committee which does not exercise any power or authority of the Board (e.g., social committees).
- (i) The authority to take such action, whether or not expressly authorized, as may reasonably be necessary to enforce the provisions of the governing documents of the Association and other instruments for the ownership, management and control of the Project and the provisions of any agreement to which the Association is a party.
- (j) The power to enforce and adopt reasonable rules and regulations governing use of Units, the Common Area, any common facilities and Association-owned property, and the conduct at Board and Members' meetings, in accordance with:
 - (1) Reasonable restrictions related to use of the Common Area and all its facilities and the conduct of Owners and their families, guests, employees, tenants and invitees with respect to the Project and other Owners. Written copies of the Rules and any schedule of fines and penalties adopted by the Board shall be furnished to the Owners.
 - (2) Setting of reasonable administrative rules, fees, deposits; and the setting of reasonable hearing procedures and monetary penalties and fines in the event of a violation of any provisions of the Governing Documents, subject to the Board's authority for disciplinary actions against members as set forth the these Bylaws.
- (k) The right to enforce provisions of the governing documents and discipline Owners for violation of such provisions pursuant to Article 10 herein.
- (l) The right to institute, defend, settle or intervene in litigation, arbitration, mediation or administrative proceedings in the name of the Association as the real party in interest without joining with it the Owners, in matters pertaining to:
 - (1) Enforcement of the Governing Documents.
 - (2) Damage to the Common Area.
 - (3) Damage to the Units that arises out of, or is integrally related to, damage to the Common Area or Units that the Association is obligated to maintain or repair.
 - (4) Enforcement of payment of Assessments pursuant to the provisions contained in this Declaration.
 - (5) Any other matter(s) in which the Association is a party, including, but not limited to contract disputes.
 - (6) Any action in which all, or substantially all, of the Owners have an interest.
- (m) The power to remove any vehicle within the Project parked in violation of this Declaration or the rules in accordance with the provisions of *Vehicle Code* §22758.2, any other powers granted to an association under California law.
- (n) The right for its agents and employees to enter any Unit or upon any portion of Common Area when necessary in connection with any emergency, maintenance, landscaping or construction work for which Association is responsible or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration. For other than emergency entry, the Association's agents/employees shall have the right to enter any Unit or upon any portion of the Common Area to affect repairs, improvements, replacements or maintenance which the Association, after approval by 2/3rd vote of the Board reasonably deems necessary. Entry shall be made only upon reasonable notice to the Owner (except in the case of an emergency). Any extraordinary costs incurred by the Association in order to gain or

effectuate unit access shall be the responsibility of the Unit Owner and may be charged against the Unit as a reimbursement assessment, enforceable pursuant to *Civil Code* §1377 et. seq.

- (o) Provide for the maintenance, management, repairs, replacement and preservation of the Common Area and improvements thereon, including the right to grant permits, licenses and easements over, under, upon and across the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project, subject to the limitations listed herein.
- (p) Use the maintenance fund to, among other things, acquire and pay for goods and services for the Common Area, facilities and interests of or for the Association to fulfill any duty or responsibility of the Association imposed by this Declaration or as may be imposed by law, subject to the limitations set forth below, including, but not limited to:
 - (1) Water, sewer, refuse, electrical, telephone, gas, and other necessary utility service for the Common Area and, to the extent not separately metered and charged, for the Units, provided, however, that the Association, acting through the Board of Directors, shall have the right to enter into agreements with public utilities and/or cable service providers to provide bulk services to the Units.
 - (2) Payment of taxes and assessments, if any, levied or assessed against the owned Common Area, or against any Condominium Unit if resulting in a lien against the Common Area and any other lien or encumbrance which affects the Common Area including, but not limited to, mechanics' liens. Such taxes, assessments, liens or encumbrances shall be paid by the Board from the Project Fund, however, shall not include any levy or assessment against (or which affects) merely the interest of one or more, but less than all, of the Condominium Units and not the interest of all of the Owners in the Common Area. The Board shall levy an enforcement assessment against any Condominium Unit for the amount of any tax, assessment, lien or encumbrance that applies specifically to such Condominium Unit to the extent the amount is separately determinable.
 - (3) Insurance policies of the Association, which shall be reviewed annually to assure full insurance protection.
 - (4) The services of any personnel, including legal and accounting services, that the Board determines are necessary or proper for the management, operation and security of the Project, of the Common Area and the Association.
- (q) Maintain such areas adjacent to the Project as the Board of Directors shall determine from time to time to be desirable in order to enhance the appearance of the Project or as may be required from time to time by the City of San Diego or other applicable governmental agency.
- (r) It shall be the duty of the Board to inspect the Common Area at least every two years for the purpose of determining the condition of the Common Area including, but not limited to, the state of adequacy of maintenance, the need for additional maintenance and/or refurbishment, replacement or repair. The Common Area to be inspected shall include but not limited to, the exterior of all buildings and structures, roofs, walkways, irrigation, landscaping, drainage and recreation facilities. Structural components of any building/structure, foundations and soils shall also be inspected if the inspection otherwise required by this Section would place a reasonable person on notice of any defect or need to maintain, repair or refurbish such item. The Board may inspect the interior of any Unit if required to do so in order to fulfill its obligations pursuant to this Section. The Board shall obtain a report of the inspection of the Common Area and maintain a copy of such report in the records of the Association.
- (s) The power and authority to define, interpret and/or construe certain words and terminologies contained in the Association's governing documents which may otherwise be vague, unclear and/or ambiguous to such extent as to not limit the Board's ability to conduct, manage and control the affairs of the Association. Notwithstanding the foregoing, any such definition, interpretation or construction shall not be inconsistent with any laws nor be in contravention to the general plan for the Project or any portion thereof.
- (t) The right and authority to dedicate and/or grant easements or licenses over all or any portion of the Common Area.
- (u) The right to make payment of taxes and assessments which are, or could become, a lien on the Common Area or a portion thereof.
- (v) The right to contract for casualty, liability and other insurance on behalf of the Association.
- (w) The power to enforce the payment of Assessments pursuant to the provisions contained in the Declaration.

5.11 LIMITATION ON POWERS.

Notwithstanding the provisions of Section 5.10, above, the Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of a quorum of the Members of the Association:

- (a) Entering into a contract with a third person under which the third person will furnish goods or services for the Common Area or the Association Property for a term longer than one (1) year with the following exceptions:
 - (1) A management contract, the terms of which have been approved by the FHA or VA; however, no agreement

- for the services to manage the Project shall exceed a term of one year and shall provide for termination by either party without cause and without a termination fee on 90 days or less written notice.
- (2) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
 - (3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.
 - (4) Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the Developer has a direct or indirect ownership interest of ten (10%) percent or more.
 - (5) Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years duration provided that the lessor under the agreement is not an entity in which the Developer has a direct or indirect ownership interest of ten (10%) percent or more.
 - (6) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities in which the Developer has a direct or indirect ownership interest of ten (10%) percent or more.
 - (7) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty or other obligation upon ninety (90) days written notice of termination to the other party.
- (b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the gross budgeted expenses of the Association for that fiscal year. This section shall not limit expenditures for repair, maintenance and replacement of reserve line items;
 - (c) Selling during any fiscal year property of the Association having an aggregate fair market value in excess of five percent (5%) of the gross budgeted expenses of the Association for that fiscal year;
 - (d) Borrowing money, incurring indebtedness and executing therefore promissory notes or other evidences of debt for the Association in excess of ten percent (10%) of the gross budgeted expenses of the Association for that fiscal year; or
 - (e) Filling a vacancy on the Board created by the removal of a Director by the Members.
 - (f) Paying compensation to Directors or to Officers for services performed in the conduct of the Association's business provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association.
 - (g) Bring any action to commence litigation for any claim involving more than Ten Thousand (\$10,000.00) Dollars;

ARTICLE 6: MEETING OF DIRECTORS

6.1 REGULAR MEETINGS.

Regular meetings of the Board of Directors shall be held as determined by the Board of Directors provided however, that meetings are held at least monthly, though the Board may Resolve that meetings be held as infrequently as every six months if business to be transacted by the Board of Directors does not justify more frequent meetings. The meetings shall be at such time and place within the Project or within the County of San Diego as fixed by resolution of the Board. Any larger meeting room selected by the Board shall be as close as possible to the Project. Notice of the time and place of the meeting shall be posted at a prominent place or places within the Common Area, if possible, and shall be communicated to the Directors not less than seventy-two (72) hours prior to the meeting; provided, however, that prior to or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him/her of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

6.2 SPECIAL MEETINGS.

Special meetings of the Board shall be held when called by written notice signed by the President of the Association or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice of any special meeting shall be provided to the Members in the manner provided for notice of regular meetings and shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting; provided, however, that notice need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

6.3 ORGANIZATIONAL MEETING.

Immediately after the annual meeting, or as soon thereafter as reasonably practicable, the Board shall meet to elect the officers of the Association and conduct any other business of the Association as the Board, in its discretion, shall determine is necessary.

6.4 QUORUM.

A majority of the number of Directors of the Board shall constitute a quorum and, if a quorum is present, the decision of majority of the Directors present shall be the act of the Board.

6.5 OPEN MEETINGS/NOTICE TO MEMBERS.

Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Members who are not on the Board may not participate in any deliberation or discussion unless expressly authorized to do so by the vote of the majority of the quorum of the Board. The Board of Directors shall set aside a time during any meeting of the Board for Members to speak, except for meetings of the Board held in executive session. A reasonable time limit for all Members of the Association to speak to the Board shall be established from time to time by the Board of Directors. Notice of meetings of the Board shall be posted in at least two (2) prominent places in the Common Area at least five (5) days prior to the meeting in the case of regular meetings and three (3) days in the case of special meetings. The notice shall specify the time and place of the meeting, whether the meeting is regular or special and, in the case of a special meeting, the nature of any special business to be transacted.

6.6 ELECTRONIC PARTICIPATION IN MEETINGS.

Members of the Board may participate in a meeting through use of conference telephone, electronic video screen communications, or other communications equipment. Participation in a meeting through the use of conference telephone, pursuant to this subdivision, constitutes presence in person at that meeting as long as all Members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment (other than conference telephone) pursuant to this paragraph constitutes presence in person at that meeting if all of the following apply:

- (a) Each Member participating in the meeting can communicate with all of the other Members concurrently.
- (b) Each Member is provided the means of participating in all matters before the Board, including, without limitation, the capacity to propose or to interpose an objection to a specific action to be taken by the corporation.
- (c) Association adopts and implements some means of verifying both of the following: (i) A person participating in the meeting is a Director or other person entitled to participate in the Board meeting and (ii) all statements, questions, actions or votes by the Board are taken or cast only by the Directors and not by persons who are not Directors and were made by that Director and not by another person not permitted to participate as a Director.

6.7 EMERGENCY MEETINGS.

An emergency meeting of the Board may be called by the President of the Association, or by any two Members of the governing body other than the President, if there are circumstances that could not have been reasonably foreseen requiring immediate attention and possible action by the Board and which of necessity make it impracticable to provide notice as required.

6.8 EXECUTIVE SESSION.

The Board may, with the approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to meet with its legal counsel or discuss and vote upon (a) litigation in which the Association is or may become involved, (b) matters that relate to the formation of contracts with third parties, (c) personnel matters, and (d) orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. In the event the executive session does not follow an open session, the Board may conduct an executive session if the nature of any and all business considered in such executive session is announced at the next regularly scheduled Board meeting. Nothing herein contained shall be construed to obligate the Board to first call an open meeting before meeting in executive session. An executive session which does not follow an open meeting may be called and noticed in the same manner as a special meeting. Any matter related to the issues enumerated in this Paragraph discussed in executive session shall be generally noted in the Association minutes.

6.9 ADJOURNMENT.

A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of the adjournment shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

6.10 ACTION WITHOUT A MEETING.

Any action required or permitted to be taken by the Board may be taken without a meeting, if all Members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect

as a unanimous vote of the Board. If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place(s) within the Common Area within three (3) days after the written consents of all Directors has been obtained. If the Common Area consists only of an easement or is otherwise unsuitable for posting the explanation of the action taken, the Board shall communicate said explanation by any means it deems appropriate.

6.11 BOARD DELIBERATION REGARDING MEMBER DISCIPLINE.

In any matter relating to the disciplining of a Member, the Board shall meet in executive session if requested by that Member, and the Member shall be entitled to attend that portion of the executive session in which the Board discusses the discipline of that Member.

6.12 MEETING MINUTES.

The Board shall keep accurate written Minutes of its meetings and shall retain them in the permanent records of the Association. The Minutes, Minutes proposed for adoption that are marked to indicate draft status or a summary of the Minutes of any Board meeting, other than executive session, shall be available to Members within thirty (30) days of the meeting. The Minutes, proposed Minutes or summary of Minutes shall be distributed to any Member upon request and upon reimbursement for the costs in making that distribution. Members shall be notified in writing at the time that the budget is distributed or at the time of any general mailing to the entire Membership of their right to have copies of the Minutes of meeting of the Board, and how and where those Minutes may be obtained.

6.13 WAIVER OF NOTICE.

The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (1) a quorum is present, and (2) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

ARTICLE 7: OFFICERS OF THE BOARD

7.1 ENUMERATION OF OFFICERS / DUTIES.

The Officers of this Association shall be a President, a Secretary, and a Treasurer and such other Officer(s) as the Board may from time to time create by Resolution, provided that a minimum of three (3) Directors hold office at any given time. The Board may appoint such additional officers as it may, in its sole discretion, determine necessary or desirable, and further has the authority to fill vacancies created by the removal of an Officer. The Officers shall be chosen by the Board and each shall serve at the pleasure of the Board. Any number of offices may be held by the same person except for the offices of President and Treasurer or President and Secretary. Duties shall be as follows:

7.1.1 PRESIDENT

- (a) Preside over all meetings of the Members and of the Board;
- (b) Sign, as President all deeds, contracts and other written instruments that have been approved by the Board unless the Board, by duly adopted resolution, authorizes the signature of a lesser Officer;
- (c) Call meetings of the Board, whenever he/she deems it necessary, in accordance with any rules and notice requirements imposed by the Board and the Governing Documents. The notice period shall be not less than seventy-two (72) hours except in the case of emergencies; and
- (d) Subject to approval of the Board, have general supervision, direction and control of the affairs of the Association and discharge all such duties as required by the Board.

7.1.2 SECRETARY

- (a) Keep a record of all meetings and proceedings of the Board and of the Members;
- (b) Keep the seal of the Association, if any, and affix it on all papers requiring the seal;
- (c) Serve all required notices of meetings of the Board and the Members;
- (d) Keep current records showing the names and addresses of all Members; and
- (e) Sign as Secretary all deeds, contracts and other written instruments that have been approved by the Board, if the instruments that have been approved by the Board and signed by the President require a second Association signature and the Board has not passed a resolution authorizing another officer to sign in the place and stead of the Secretary.

7.1.3 TREASURER

- (a) Receive and deposit all of the funds of the Association in any bank or banks selected by the Board;
- (b) Be responsible for and supervise the maintenance of books and records accounting for Association funds and other Association assets;
- (c) Disburse and withdraw Association funds in the manner specified by the Board; and
- (d) Prepare and distribute the financial statements for the Association required by the Declaration.

7.2 RESIGNATION AND REMOVAL.

The Board may remove any Officer from office with or without cause. An Officer may resign at any time by giving notice to the President or the Secretary; such resignation to take effect at the date of receipt of the notice or any later time specified in the notice. Unless otherwise specified, acceptance of the resignation by the Board shall not be necessary to make it effective.

7.3 COMPENSATION.

No Officer or Director shall receive compensation for any service he or she may render to the Association; provided, however, that any Director may be reimbursed for actual out of pocket expenses incurred by the officer in the performance of his or her duties.

7.4 DELEGATION; CONFLICT.

With Board approval, an Officer may delegate his/her powers and duties to any committee, employee or agent of the Association. Notwithstanding the foregoing, no family member of any Director shall be employed by the Association or by Association contractors. Members of the Board shall not award contracts to any organization in which they or a family member have any financial interest. Neither Board Members nor their families shall be eligible to be awarded service contracts with the Association for a period of one (1) year after such Member's term of office expires. Any actions of the Board that have any financial liability impact must first be approved by a vote of the entire Board. Any action by any Member of the Board may be rejected or rescinded as an act of the Board or the Association by a majority of the Board.

ARTICLE 8: BOOKS AND RECORDS

8.1 REQUIRED BOOKS AND RECORDS.

The Association shall maintain at its principal office:

- (a) Copies of the Governing Documents, as last amended. For the purposes herein, "Governing Documents" shall consist of these Bylaws, the Declaration (CC&R's), the Condominium Plan, and the Articles of Incorporation. Other document that should be maintained may include, but not necessarily be limited to: published Rules and Regulations, published Collection & Fine Policy(ies), published Parking & Towing Policy(ies), published Architectural Rules and published Dispute Resolution Procedures.
- (b) Adequate and correct Financial Records consisting of: Budgets, Annual Reports, Reserve Studies (and reserve account balances including records of payment made from Reserves), Interim Financial Statements (e.g. Balance Sheets, Income & Expense Statements, Budget comparison, General Ledger); Executed Contracts that are not otherwise considered privileged under law, written Board approval of Vendor/Contractor proposals and invoices, and Checking/Savings Registers.
- (c) Written Minutes of the proceedings of its Members, Board and committees of the Board.
- (d) A membership register of each Member's name, mailing address and voting rights.
- (e) Enhanced Association Documents, which may include: Credit Card Statements, Statements for Services Rendered, Reimbursement requests, Purchase Orders, and cancelled checks.

8.2 INSPECTION RIGHTS.

- (a) The Association shall make the accounting books and records and the Minutes of proceedings, other than those Minutes taken of proceedings held in Executive Session of the Board, available for inspection and copying by any Member or their designated representative, provided that such designation is in writing.
- (b) Such accounting books and records and the Minutes of proceedings shall be made available for inspection and copying at the business of the of the Association located within the boundaries of the development or, if no such business office exists within the development, the Association shall make such documents available at a place that the requesting Member and Association agree upon. If no such place can be agreed upon, or if the requesting member submits a written request directly to the Association for copies, the Association may satisfy the requirement for inspection by mailing copies of the requested records to the member by first-class mail within ten (10) days of receiving the member's request. The

Association may bill the Member for its actual and reasonable costs incurred for copying and mailing the documents, provided that the Member was informed of the amount prior to sending the documents.

- (c) The Association may withhold or redact information from the accounting books and records and the Minutes of proceedings if the release of information is reasonably likely to lead to either (i) identity theft, as may be further described in *Civil Code* §1365.2, or (ii) fraud in connection with the Association.
- (d) Notwithstanding the foregoing, and except as provided by attorney-client privilege, the Association may not withhold or redact information concerning the compensation paid to employees, vendors, or contractors, subject to identity limitations as provided and allowed by Code.
- (e) The accounting books and records and the Minutes of proceedings, and any information from them, may not be sold, used for commercial or any other purpose not reasonably related to a Member's interest as a Member of the Association.
- (f) The Association may bring legal action to the extent allowed by law against any person violating this Section, and the Association shall in no way be limited in damages for misuse of information obtained pursuant to this Section, nor shall it be limited the right of injunctive relief to stop the misuse of any such information. If successful in an action to enforce, the Association shall be entitled to recover reasonable costs and expenses, including reasonable attorney's fees.
- (g) A Member may bring an action to enforce their rights to inspect and copy the accounting books and records and the Minutes of proceedings. If a court finds that the Association unreasonably withheld access, the Member shall be entitled to a reward of reasonable costs and expenses, including reasonable attorney's fees, and may assess a civil penalty against the Association of up to five hundred (\$500) for each violation.
- (h) For the purposes of this subsection, "accounting books and records" shall be defined to mean the: (a) pro forma operating budget; (b) audited annual report; (c) monthly balance sheet and income and expense statement; and (d) reserve study.
- (i) Every Director shall have the absolute right to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association at any reasonable time. The right of inspection by a Director includes the right to make extracts and copies of documents but excludes secret written ballots, which shall only be reviewed by inspectors of Election, the management company and/or the Association's counsel.
- (j) Members shall be notified in writing at the time that the pro forma operating budget required in *Civil Code* §1365 is distributed, or at the time of any general mailing to the entire Membership of the association, of their right to have copies of the minutes of meetings of the Board of Directors, and how and where those minutes may be obtained.

8.3 DOCUMENTS PROVIDED BY ASSOCIATION.

Within ten (10) days of the mailing or delivery of a written request therefor and receipt of the costs to prepare and reproduce said documents, Association shall be required to provide any Owner with the following:

- (a) A copy of the Governing Documents and most recent financial statements;
- (b) A written statement from an authorized representative of the Association specifying:
 - (i) the amount of current Regular, Special and/or other assessments and fees,
 - (ii) the amount of any assessments levied on an Owner's Unit that are unpaid as of the statement date, and
 - (iii) the amount of late charges, interest, and costs of collection that, the statement date, are or may be made a lien on the Owner's Unit pursuant to the Declaration; and
- (c) A statement noting any change in the Association's current assessments and fees that have been approved by the Board but which have not become due and payable as of the date disclosure is provided pursuant to this Section. Minutes proposed for adoption that are marked to indicate draft status, or a summary of the Minutes, any meeting of the Board, other than an Executive Session, shall be made available to Members within 30 days of the Meeting and shall be distributed Members only upon request and payment of any fees.

8.4 FINANCIAL DOCUMENTATION; PREPARATION, REPORTING AND REVIEW RESPONSIBILITIES.

Pursuant to the provisions of *Civil Code* §1365, as may from time to time be amended, the Association shall prepare and distribute to all of its members the following documents:

- (a) A *pro forma* operating budget for each fiscal year, a copy thereof to be distributed to each Owner not less than thirty (30) days nor not more than ninety (90) days prior to the beginning of the fiscal year, unless California law provides a different time line, in which case the statute shall control. The budget shall contain at least the following:
 - (1) The estimated revenue and expenses on an accrual basis;
 - (2) A summary of the Association's reserves based upon the most recent review or study conducted pursuant to *Civil Code* §1365.5, based only on assets held in cash or cash equivalents, which shall be printed in bold type and include such information required under *Civil Code* §1365(a)(2);
 - (3) A statement as to both of the following:

- (i) Whether the Board has determined or anticipates that the levy of one or more Special Assessments will be required to repair, replace or restore any major component or to provide adequate reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment.
 - (ii) The mechanism(s) by which the Board will fund reserves to repair/replace major components, including assessments, borrowing, use of other assets, deferral of selected replacement or repairs, or alternative mechanisms.
- (4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement or additions to those major components that the Association is obligated to maintain or other components identified by the Board. The report shall include, but need not be limited to, reserve calculations made using the formula provided in *Civil Code* §1365.2.5(b)(4), as may be from time to time amended or repealed, and may not assume a rate of return on cash reserves in excess of two (2%) percent above the rediscount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.

In lieu of the distribution of the pro forma operating budget, the Board may elect to distribute a summary of the statement to each Owner with a written notice, such notice to be in at least 10-point boldface type of the front page of the summary, that the pro forma operating budget is available at the business office of the Association or suitable location within the boundaries of the development, and that copies will be provided upon written request and at the expense of the Association. If any Member requests that a copy of the pro forma budget be provided by mail, the Association shall provide the copy to the Owner within five (5) working days of the receipt of the Owner's written request via first-class United States mail at the expense of the Association.

- (b) Not less than thirty (30) days nor more than ninety (90) days immediately preceding the Association's fiscal year:
 - (1) A copy of the Association's operating budget;
 - (2) A statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its Assessments against Owners; and
 - (3) A summary of the association's property, general liability, and earthquake and flood insurance policies and include all of the information required by *Civil Code* §1365(e)(1).
- (c) An annual report, within one-hundred twenty (120) days after the close of each fiscal year, for any fiscal year in which the gross income to the Association exceeds \$75,000.00, a copy of the review of the financial statement prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy. If the annual report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized Officer of the Association that the statements were prepared without audit or review from the books and the records of the Association. Notwithstanding the foregoing, any Eligible Mortgage Holder shall be entitled, upon written request, to have an audited financial statement for the immediately preceding fiscal year prepared at its sole expense if one is otherwise not available.
- (d) On at least a quarterly basis the Board shall review the following:
 - (a) A current reconciliation of the operating and reserve accounts of the Association;
 - (b) The actual reserve revenues and expenses for the current year to date compared to the current year's budget;
 - (c) An income and expense statement for the operating and reserve accounts of the Association; and
 - (d) The most current account statements prepared by the financial institution where the Association has its operating and reserve accounts.

8.5 RECORDS DELIVERY TIMELINES.

In addition to the time periods in which to provide financial documentation, pursuant to §8.4, above, the Association shall provide for inspection, upon written request of a Member the following documents in the time periods specified:

- (a) The time periods for which *specified records* shall be provided is as follows:
 - (1) Association Records shall be made available for the current fiscal year and for each of the previous two fiscal years;
 - (2) Minutes of Member, Board Meetings and Committee shall be permanently made available.
- (b) The timeframes in which access to *specified records* shall be provided to a requesting Member is as follows:
 - (1) Association Records prepared during the current fiscal year: within 10 business days following the Association's receipt of the request.
 - (3) Association Records prepared during the previous two fiscal years: within 30 calendar days following the Association's receipt of the request.

8.6 DOCUMENTS & STATEMENTS TIMELINES.

Within ten (10) days of the mailing or delivery of a written request therefor, and approval of the costs to prepare and reproduce said documents, Association shall be required to provide any Owner with the following:

- (a) A copy of the Governing Documents
- (b) A statement noting any change in the Association's current assessments and fees that have been approved by the Board but which have not become due and payable as of the date disclosure is provided pursuant to this Section. Minutes proposed for adoption that are marked to indicate draft status, or a summary of the Minutes, any Meeting of the Board, other than an Executive Session, shall be made available to Members within 30 days of the Meeting and shall be distributed to Members only upon request and payment of any costs.
- (c) A written statement from an authorized representative of the Association specifying:
 - (i) the amount of current Regular, Special and/or other assessments and fees,
 - (ii) the amount of any assessments levied on an Owner's Unit that are unpaid as of the statement date, and
 - (iii) the amount of late charges, interest, and costs of collection that, the statement date, are or may be made a lien on the Owner's Unit pursuant to the Declaration.

ARTICLE 9: RESERVES: STUDY & FUNDING

9.1 RESERVE STUDY.

Once every three (3) years the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the Project, if the current replacement value of the major components is equal to or greater than one-half of the Association's gross budget, excluding the reserve account for that period. The Board shall review this study, or cause it to be reviewed, annually and consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. This study shall, at a minimum, include:

- (1) Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years;
- (2) Identification of the probable remaining useful life of the identified components as of the date of the study;
- (3) An estimate of the cost of repair, replacement, restoration or maintenance of the components identified in (a), above; and
- (4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain the components identified in (a), above, during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

9.2 RESERVE FUNDING & ACCOUNTS.

- (a) The signatures of at least two (2) Directors of the Board shall be required for the withdrawal of moneys from the Association's reserve accounts. The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation over any such purpose thereof, for which the reserve fund was established.
- (b) The foregoing notwithstanding, the Board may reallocate monies in the reserve account for different specific line items of major components which the Association is obligated to repair, restore, replace or maintain, as long as said reallocation is based upon a written finding by the Board of Directors which explains the reason for the reallocation and includes the opinion(s) of professionals and/or experts confirming the need for the reallocation.
- (c) Further notwithstanding the foregoing, the Board may authorize the temporary transfer of money from a reserve fund to the general operating fund to meet short-term cash-flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's Minutes, explaining the reasons the transfer is needed and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Project, temporarily delay the restoration.
- (d) All notices regarding the Board's intent to transfer reserve funds and to use reserve funds shall be consistent with the requirements of *Civil Code* §1365(c) and (d).
- (e) The Board shall exercise prudent fiscal management in delaying restoration and restoring the expended funds to the reserve account and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required herein. This special assessment is subject to the limitation imposed by *Civil Code* §1366. When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of that decision, and of the availability of an accounting of those expenses, in the next available mailing to all Members of a notice or report addressed and mailed or delivered to a Member as part of a newsletter, magazine or

other article regularly sent to Members. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's office.

ARTICLE 10: MEMBER DISCIPLINE; HEARINGS

- (a) The Board shall have the right to discipline a Member and/or his/her/its family, tenants, residents, co-owners, guests and/or invitees for any period which the Member is delinquent in the payment of assessments or is in violation of any of the provisions of the Governing Documents by (i) suspending the Member's rights and privileges, including voting rights and the rights and privileges to use the Common Area and/or facilities, appurtenant to the Member's Unit, as well as other use privileges granted to Owners in good standing and/or (ii) imposing a monetary penalty.
- (b) The Association cannot be empowered to cause a forfeiture or abridgement of an owner's right to the full use and enjoyment of his Unit on account of the failure by the Owner to comply with the provisions of the Governing Documents except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the Owner to pay assessments duly levied by the Association.
- (c) Except for the authority and rights provided to it for enforcement of nonpayment of assessments, the notice and hearing procedures shall be in accordance with *Corporations Code* §7341, to wit:
 - (i) At least fifteen (15) days' prior Notice shall be provided to the Member prior to the imposition of a monetary fine/penalty or suspension and the reasons therefore. Such Notice shall provide an opportunity for the Member to be heard, orally or in writing, before the Board or such Committee as may be authorized by the Board not less than five (5) days before the effective date of the monetary fine/penalty or suspension. The Notice shall set forth the date, time and place where the hearing shall be held and shall provide the Member the opportunity to request that such Meeting be held in Executive Session of the Board and shall set forth the amount of any monetary penalty/fine to be imposed and/or such other disciplinary action as the Association may be entitled.
 - (ii) Notice shall be given by any method reasonably calculated to provide actual notice, but if given by mail such Notice be given by first-class or registered mail sent to the last address of the Member as shown on the Association's records;
 - (iii) Any action challenging a suspension of Membership, including any claim alleging defective notice, must be commenced within one year after the date of suspension, expulsion or termination. In the event such an action is successful, the court may order any relief, including reinstatement, if finds equitable under the circumstances, but no vote of the Members or of the Board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the Member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.
- (d) A Member who is suspended shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments or fees incurred prior to the suspension or arising from contract or otherwise.

ARTICLE 11: DISPUTE RESOLUTION

11.1 DISPUTES RELATED TO ENFORCEMENT.

Pursuant to the provisions of Civil Code §1354, as may from time to time be amended, prior to any party bringing an action related to declaratory, injunctive, or writ relief, or relief in connection with a claim for monetary damages not exceeding \$5,000, for matters related to enforcement of the Civil and Corp. Code governing homeowner associations and/or of the Association's Governing Documents, as that term is defined within Civil Code §1351(j), as may be amended, the parties must first attempt to resolve the dispute pursuant to the alternative dispute resolution procedures provided below. Notwithstanding the foregoing, this right to resolution of disputes via a form of alternative dispute resolution prior to the commencement of litigation shall not apply to small claims actions or disputes related to assessments.

11.2 ALTERNATIVE DISPUTE RESOLUTION ("ADR")

11.2.1 INTERNAL ADR PROCEDURES

Prior to referring disputes to any form of external ADR, as provided below, the parties shall first attempt to resolve the dispute through the internal ADR procedures established by the Association, as follows:

- (a) Either party to the dispute may request the other party to meet and confer in an effort to resolve the dispute

provided that such request is made in writing by personal delivery, first-class mail, express mail, facsimile transmission, or such other means as reasonably calculated to provide notice to the other party.

- (1) No Member of the Association shall be obligated to accept a request to meet and confer that is initiated by the Association.
- (2) Notwithstanding the foregoing, the Association may not refuse a request by a Member to meet and confer.
- (d) The Board of Directors shall designate a Member of the Board to meet and confer with the Owner/Member.
- (e) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.
- (f) A resolution of the dispute agreed to by the parties shall be memorialized in the form of a written agreement, signed by the member/Owner and the designated Member of the Board on behalf of the Association. The signed Agreement shall be binding to all parties and shall be judicially enforceable provided that:
 - (1) The agreement is not in conflict with law or the Association's governing documents;
 - (2) The agreement is consistent with the authority granted to the Board of Directors to its designee or the agreement is ratified by the Board;
- (g) If the Member of the Association participates, but the dispute is resolved other than by agreement of the Member, the Member shall have a right to appeal to the Association's Board of Directors.
- (h) No Member of the Association may be charged a fee to participate in internal ADR processes.

11.2.2 EXTERNAL ADR PROCEDURES - PRE-LITIGATION

Only upon first endeavoring to resolve any dispute pursuant to the internal procedure provided in §10.3.1, above, and prior to the commencement of any litigation action for any matter as designated in §10.2, above, the parties shall have endeavored to submit the dispute to a form of 'alternative dispute resolution', as that term may be defined in Civ. Code §1369.510(a).

- (a) Any party to the dispute may initiate the ADR process by serving on all other parties a Request for Resolution via person service, first-class mail, express mail, facsimile transmission, or other means as may be reasonably calculated to provide the party on whom the Request is served with notice of the Request;
- (b) The Request for Resolution shall include:
 - (i) a brief description of the dispute;
 - (ii) a request for alternative dispute resolution;
 - (iii) a notice that the party being served with the Request must respond within 30 days of receipt or it will be deemed rejected.
 - (iv) If the Association is making the request upon a Member, a copy of Civ. Code §1369.50 but be included with the Request.
- (b) If ADR is accepted by the party which was served, ADR shall be completed within 90 days of the serving party's receipt of such acceptance, unless extended by written stipulation signed by both parties.
- (c) The costs of ADR shall be borne by both parties.

This provision shall apply only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for relief in connection with a claim for monetary damages not in excess of \$5,000, but specifically excludes any small claims action or assessment dispute.

11.2.3 EXTERNAL ADR PROCEDURES - LITIGATION: POST-LITIGATION

- (a) At the time of commencement of a legal enforcement action, the party commencing the action shall file with the initial pleadings a certificate stating that one or more of the following conditions have been satisfied:
 - (1) ADR has been completed in compliance with Civ. Code §1369.510 et. seq.;
 - (2) One of the other parties to the dispute did not accept the terms offered for ADR;
 - (3) Preliminary or injunctive relief is necessary.
- (b) After legal enforcement action has been commenced, on written stipulation of the parties, the matter may be referred to a form of external ADR and the referred action shall be stayed in the Court.
- (c) The cost of ADR shall be borne by both parties.

ARTICLE 12: NON-LIABILITY AND INDEMNIFICATION

12.1 LIMITATION ON LIABILITY OF ASSOCIATION'S DIRECTORS AND OFFICERS.

No Directors, committee Members or officers of the Association (collectively and individually referred to as the "Released Party") shall be responsible to any Owner, or Member of an Owner's family, any of the Owner's tenants, guests, servants, employees, licensees, invitees or any other person for:

- (a) Any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required by the Governing Documents, 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. Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual budget, the funding of Association reserve accounts for repair, replacement and maintenance of Common Areas and enforcement of the Governing Documents.
- (b) Any loss or damage suffered by reason of theft or otherwise of any article, vehicle or other item of personal property which may be stored by such Owner or other person within any Unit or Exclusive Use Common Area or for any injury to or death of any person or loss or damage to the property of any person caused by fire, explosion, the elements or any other Owner or person within the Project or by any other cause, unless the same is attributable to his or her own willful or wanton act or gross negligence. It is the intent of this Section to provide volunteer Directors and Officers with protection from liability to the full extent permitted by California *Civil Code* §1365.7, or comparable superseding statute, and to the extent this provision is inconsistent with said section, the *Civil Code* shall prevail.

12.2 INDEMNIFICATION OF ASSOCIATION.

Each Owner shall be liable to the Association for any damage to the Common Areas and/or Association Property caused by the negligence or willful misconduct of the Owner or his or her family, guests, invitees or lessees. Each Owner shall indemnify, hold harmless, and pay any costs of defense of each other Owner from claims for personal injury or property damage occurring within any Unit owned by the indemnitor, provided that this protection shall not extend to any indemnitee whose negligence or willful misconduct caused or contributed to the injury or damage. This Section is not intended to be for the benefit of any insurer and shall not affect nor limit the duty of any insurer to pay any claim which would be payable by said insurer but for this Section.

12.3 INDEMNIFICATION BY ASSOCIATION.

To the fullest extent permitted by law, the Association shall indemnify its Directors, Officers, Committee Members, Employees, and other Agents described in *Corporations Code* §7237, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding" as and including an action by or in the right of the Association, by reason of the fact that such person is or was a person described by that Section. "Expenses" and "Proceeding" as used in this Section shall have the same meaning as in *Corporations Code* §7237(2).

12.4 APPROVAL OF INDEMNITY BY ASSOCIATION.

On written request to the Board by any person seeking indemnification hereunder, the Board shall promptly determine in accordance with *Corporations Code* §7237(e), whether the applicable standard of conduct set forth in *Corporations Code* §7237(b) or §7237(c) has been met, and if it has, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Directors who are not parties to the proceeding, the Board shall promptly call a meeting of Members. At that meeting, the Members shall determine under *Corporations Code* §7237(e) whether the applicable standard of conduct set forth in *Corporations Code* §7237(b) or §7237(c) has been met, and if it has, the Members present at the meeting in person or by proxy shall authorize indemnification.

12.5 ADVANCEMENT OF EXPENSES.

To the fullest extent permitted by law, and except as is otherwise determined by the Board in a specific instance, expenses incurred by a Director, Officer, Employee or Agent seeking indemnification in defending any proceeding covered hereunder shall be advanced by the Association before final disposition of the proceeding, on receipt by the Association of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Association for those expenses.

ARTICLE 13: AMENDMENTS

An addition or amendment to this document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only.

These Bylaws may be amended at regular or special meetings of the Members and shall require the vote or written assent of at least fifty-one (51%) percent of the voting power of the Association. Notwithstanding the foregoing, the percentage of a quorum or of the voting power of the Association or of the Members necessary to amend a special clause or provision of these Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under the clause or provision.

ARTICLE 14: MISCELLANEOUS

14.1 DEFINITIONS.

Unless otherwise specified in these Bylaws, the definitions set forth in the Declaration shall also apply to these Bylaws.

14.2 CONFLICT.

In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

CERTIFICATION & EXECUTION

I, the undersigned, the duly elected and acting Secretary of the SHALIMAR MANOR CONDOMINIUM ASSOCIATION, a California nonprofit mutual benefit corporation, do certify that these Bylaws were adopted as the Bylaws of the Association on _____, 2007, and that they do now constitute the Bylaws of the Association.

This Certificate is executed under penalty of perjury on _____, 200_____, in San Diego, California.

SHALIMAR MANOR CONDOMINIUM ASSOCIATION,
a California nonprofit mutual benefit corporation

By: _____,
Secretary