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GOLD BEND CONDOMINIUMS

**SECOND RESTATED
 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
 &
 FIRST RESTATED BYLAWS**

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GOLD BEND CONDOMINIUMS

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

CC&R RECITALS

THIS SECOND RESTATED DECLARATION is made by GOLD BEND CONDOMINIUM ASSOCIATION (the "Association") based on the following recitals:

- A.** The Association is a nonprofit, mutual benefit corporation established for the purpose of managing and maintaining a common interest development consisting of 127 Condominiums located in Truckee, Placer County, California (the "Property"). The physical boundaries of the Property are shown on the subdivision map entitled "Tract No. 225, Northstar Unit 1-D" recorded in the Office of the County Recorder (the "County Recorder") of Placer County, California on September 6, 1973 in Book K of Maps at Page 3, but the Property does not include Parcel A or Parcel B shown on that map. The physical boundaries of the Condominiums are shown on drawings (each a "Condominium Plan") attached to the following recorded documents:
- (1) The Condominium Certificate and Declaration of Annexation recorded with the County Recorder September 6, 1973 in Book 1517 at Page 420;
 - (2) The Declaration of Merger of Increments into Condominium Project, Certificate of Annexation and Certificate Supplementing the Description of Condominiums recorded with the County Recorder November 16, 1973 in Book 1533 at Page 124;
 - (3) The Declaration of Merger of Increments into Condominium Project, Certificate of Annexation and Certificate Supplementing the Description of Condominiums recorded with the County Recorder November 16, 1973 in Book 1533 at Page 134; and
 - (4) The Declaration of Merger of Increments into Condominium Project, Certificate of Annexation and Certificate Supplementing the Description of Condominiums recorded with the County Recorder November 16, 1973 in Book 1533 at Page 144;
- B.** This Second Restated Declaration, once recorded with the County Recorder, will entirely replace and supersede the "First Amended and Restated Declaration Establishing A Plan Of Condominium Ownership" recorded with the County

Recorder December 17, 1990 as Document No. 90-081050.

- C. This Second Restated Declaration preserves the original uniform plan of property ownership for the Property except as modified herein. Each individual Owner holds title to a separate interest in a Unit and to an undivided interest in the Common Area.
- D. The entire common interest development is subject to the covenants, conditions, and restrictions in this Second Restated Declaration. They are established for the purpose of protecting, preserving and enhancing the value and attractiveness of the Property for the mutual benefit of all Owners. The covenants, conditions and restrictions are enforceable as equitable servitudes, and legally bind and inure to the benefit of all present and future Owners.

CC&R ARTICLE 1. DEFINITIONS

The following initially capitalized nouns have the meanings set forth below whenever used in the Governing Documents:

1.1 "Assessment" means the proportionate costs of operating, maintaining and managing the Property assessed against each Owner. There are three types of assessments: Regular Annual Assessments, Special Assessments and Personal Reimbursement Assessments. The characteristics of each are described in CC&R Article 5. All such Assessments shall be collectively referred to as "Assessments."

1.2 "Association" means the GOLD BEND CONDOMINIUM ASSOCIATION. In general, when the Governing Documents provide for a decision or an action by the "Association", the authority to make the decision, or to initiate and supervise the action, resides with the Board and not with the Owners as described in Section 4.1.

1.3 "Board" means the Board of Directors of the Association.

1.4 "Common Area" means the entire Property except for the Units.

1.5 "Condominium" means a Unit and an undivided interest in the Common Area together with all associated rights and responsibilities.

1.6 "Condominium Plans" means the diagrams and/or narrative description of the division of the Property into Units, Exclusive Use Common Area and Common Area recorded with the County Recorder as described in the Recitals to this Second Restated Declaration. The approximate location and physical boundaries of Units, Exclusive Use Common Areas and Common Area are shown on the Condominium Plans. The actual, as-built dimensions of the structures, either as originally constructed, or as reconstructed in accordance with the Governing Documents, shall be presumed the true boundaries and take priority over any legal description in a document, regardless of minor encroachments resulting from constructions, settlement, lateral movement or other causes.

1.7 "Emergency" means an event or condition that threatens imminent peril to the health or welfare of persons, or damage to property, or an emergency situation as defined in Civil Code § 1366 (b).

1.8 "Exclusive Use Common Area" means (i) those portions of Common Area reserved for the exclusive use of an Owner, consisting of parking spaces, storage spaces, balconies and stairways, as shown on the Condominium Plans and assigned in the deeds first conveying each Condominium, and (ii) any other building component designed to serve only one Unit but located outside the interior boundaries of that Unit.

1.9 "Governing Documents" means this Second Restated Declaration, the First Restated Bylaws, Articles of Incorporation and Rules of the Association.

1.10 "Governmental Regulations" means all applicable laws, ordinances, resolutions, procedures, orders, standards, conditions, approvals, rules and regulations of any governmental entity with authority over the Property.

1.11 "Mortgage" means the conveyance of any interest in a Condominium to secure the performance of an obligation. "Mortgage" is synonymous with "deed of trust" for the purposes of the Governing Documents.

1.12 "Mortgagee" means a person or entity who holds the beneficial interest in a Mortgage. "Mortgagee" is synonymous with "beneficiary" under a deed of trust.

1.13 "Occupant" means a person who sleeps in a Unit during more than fourteen (14) days within any thirty (30)-day period.

1.14 "Owner" means the record owner of a Condominium or a contract buyer under an installment land contract with equitable title. "Owner" shall not include those who hold an interest in a Condominium merely as security for the performance of an obligation.

1.15 "Percentage Interest" means the interest in the Common Area conveyed with each Unit as shown on the Condominium Plans. Except as specifically provided in the Condominium Plans or this Second Restated Declaration, each Owner is equally entitled to use of all Common Area regardless of his/her Percentage Interest.

1.16 "Property" means the entirety of the common interest development described in the Recitals to this Second Restated Declaration.

1.17 "Rules" means the rules adopted by the Board or the Association pursuant to this Second Restated Declaration.

1.18 "Unit" means the areas so designated on the Condominium Plans. Except as otherwise provided on the Condominium Plans, each Unit consists of the area bounded by the interior unfinished surfaces of its perimeter walls, bearing walls, floors, fireplaces, ceilings, windows and interior portions of window frames and trim, doors (including windows in doors) and interior portions of door frames and trim, and includes both the portions of the building so described and the airspace so encompassed. A Unit includes (i) the paint on all interior

surfaces located or exposed within the Unit, (ii) window sashes or other elements that directly contact the glass portion of the window, (iii) door and window hardware and all mechanical elements of doors and windows, and (iv) portions of the electrical, plumbing, HVAC, and other systems serving only the Unit. A Unit does not include any portion of the frames of windows or exterior doors which is not exposed within a unit interior, or any structural component of walls, ceilings, and floors.

1.19 "Utilities" means services or systems related to electricity, water, sewer, HVAC, communications, scavenger, recycling, elevator, and fire detection and suppression, and all incidental pipes, conduits, ducts, wiring, equipment and enclosures.

CC&R ARTICLE 2. OWNER'S PROPERTY RIGHTS

2.1 OWNER'S EASEMENTS. The following are reserved for the benefit of each Owner and Unit: (i) a nonexclusive easement for ingress, egress and support through the Common Area, (ii) a nonexclusive easement for Utilities at reasonable places through the Common Area, (iii) a nonexclusive easement for the full use and enjoyment of those portions of any shared Utility which serves the Unit, and (iv) an easement for minor encroachments resulting from construction, repair, shifting, settlement or movement upon any portion of the Property.

2.2 SUBDIVISION OF CONDOMINIUMS. There shall be no further physical subdivision of a Condominium into multiple parcels or lots that include less than all of the space allotted to such Condominium under the Condominium Plans and this Second Restated Declaration.

2.3 MASTER DEVELOPMENT AND GOVERNING DOCUMENTS. The Property is part of a larger development called "Northstar" originally created by a Declaration of Covenants, Conditions and Restrictions recorder with the County Recorder November 11, 1971 in Book 1384 at Page 124 (the "Master Declaration"). The Property, including all Condominiums, are subject to the provisions of the Master Declaration, including any amendments or restatements, as well as bylaws, rules or other restrictions and requirements adopted pursuant to the Master Declaration (in its original form or as amended or restated).

CC&R ARTICLE 3. ASSOCIATION POWERS AND DUTIES

3.1 GENERAL POWERS OF ASSOCIATION. The Association shall have the power to do any lawful thing required or permitted to be done under the Governing Documents and necessary, appropriate or incidental to the exercise of the express powers or duties of the Association for the peace, health, comfort, safety and general welfare of the Owners, subject only to the limitations on those powers set forth in the Governing Documents. The duties and powers of the Association shall include, but are not limited to, those specifically enumerated in this Second Restated Declaration. The activities of the Association shall be conducted, and all powers exercised, by and under the direction of the Board.

3.2 ENFORCEMENT. The Association shall exercise prudent business judgment in

determining whether, when and how to enforce the Governing Documents. The Association is authorized to impose fines, suspend voting rights, and impose any other disciplinary action for violation of the Governing Documents to the fullest extent permitted by California law. Before a policy involving the imposition of monetary penalties takes effect, and any time such penalties are revised, the Association shall provide each Owner with a written schedule of penalties. When the Board is to meet to consider discipline of an Owner, it shall so notify the Owner in a writing delivered personally or by first class mail at least ten (10) days before the meeting. The notice shall contain the date, time and place of the meeting, a description of the alleged violation, and a statement that the Owner may attend and address the Board either in open session or in executive session. If the Board imposes discipline, it shall so notify the Owner in a writing delivered personally or by first class mail within fifteen (15) days following the action. A disciplinary action shall not be effective against an Owner unless the Board fulfills the procedural requirements of this Section. The Association may not impair an Owner's right to use and enjoy his/her Condominium as part of any disciplinary action. Each Owner shall have a right of action against another Owner or the Association for failure to comply with the Governing Documents or with a decision of the Association. A failure by the Association to enforce any provision of the Governing Documents on one or more occasions shall not be deemed a waiver or estoppel of the Association's right to enforce a similar or other violation of the Governing Documents.

3.3 ADOPTION OF RULES. To the fullest extent permitted by law, the Association may adopt Rules related to the management and use of the Property and the implementation of the Governing Documents. The Association shall follow the procedure for adopting and changing Rules described in Civil Code Sections 1357.100 et. seq.

3.4 LEGAL ACTIONS. The Association may institute, defend, settle or intervene in litigation, mediation, arbitration or administrative proceedings in any matter relating to the Property including but not limited to (i) enforcement of the Governing Documents, (ii) damage to the Common Area, (iii) damage to other parts of the Property which the Association is obligated to maintain or repair, or (iv) damage to Units or Exclusive Use Common Areas which arises out of, or is integrally related to, damage to the Common Areas or other parts of the Property which the Association is obligated to maintain or repair. The Association shall not be required to conduct inspections, maintain inspection records, exhaust any applicable casualty insurance coverage, or provide an opportunity to cure prior to initiating a civil action.

3.5 MECHANICS LIENS. When a mechanics lien against the Common Area arises from work for which an Owner has contracted, the Association may discharge it and charge any associated cost to the responsible Owner as a Personal Reimbursement Assessment. When a mechanics lien against the Common Area arises from work for which the Association has contracted and there is no dispute with the entity that filed the lien, the Association shall promptly discharge the lien. When a mechanics lien against a Unit arises from work for which the Association has contracted and the Unit Owner so requests, the Association shall promptly discharge it.

3.6 UTILITY SERVICE. The Association shall obtain Utility service for the Common Area. In addition, when a particular Utility cannot reasonably be obtained by a Unit independently, the Association shall obtain it and, to the extent possible, allocate any associated cost according to usage. Notwithstanding the preceding sentences, however, the Association shall not be obligated to provide satellite television under any circumstances.

3.7 ASSOCIATION'S EASEMENT FOR ACCESS. The Association shall have an easement for access through every part of the Property, including the Units. The Association shall not be obligated to provide advance notice of its intention to enter a Unit unless the Owner has specifically requested such notice, and provided instructions to whom such notice is to be given. In instances when an Owner requests advance notice, the notice shall be given twenty four (24) hours in advance, and only provided the situation is not an Emergency in the opinion of the Association. Entry by the Association shall be made with as little inconvenience as possible to the Occupants. Any damage caused by the entry shall be promptly repaired at the expense of the Association.

3.8 QUARTERLY REVIEW OF FINANCIAL STATUS. Quarterly or more frequently the Association shall (i) review the latest bank statements and reconciliations for its operating and reserve accounts, (ii) review income and expense statements for its operating and reserve accounts, and (iii) compare the current year's actual operating and reserve revenues and expenses to the budget.

3.9 ANNUAL BUDGETING AND REPORTING.

- A. Operating Budget.** Not less than thirty (30) nor more than ninety (90) days before the beginning of each fiscal year, the Association shall prepare and distribute to each Owner a *pro forma* operating budget for the next fiscal year in compliance with Civil Code Section 1365, including an Assessment And Reserve Funding Disclosure Summary in the form required by Civil Code Section 1365.2.
- B. Dispute Resolution Reminder.** Along with the operating budget, the Association shall distribute (i) a description of the Association's internal dispute resolution process (Section 11.4A of this Declaration), and (ii) a copy or summary of Civil Code Section 1369.510 et. seq. along with the following statement: "Failure of a member of the association to comply with the alternative dispute resolution requirements of Section 1369.520 of the Civil Code may result in the loss of your right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law."
- C. Insurance Summary.** Along with the operating budget, the Association shall distribute a summary of the information regarding the Association's insurance coverage for property damage, general liability, earthquake (if any) and flood (if any), in compliance with Civil Code Section 1365(e).
- D. Assessment and Foreclosure Policy.** Along with the operating budget, the Association shall distribute the notices required by Civil Code Section 1365.1 relating to collections, foreclosures, payment plans, and Association meetings regarding these matters.
- E. Alteration Approval Policy.** Along with the operating budget, the Association shall distribute a summary of requirements for Association approval of physical changes to property. The summary shall describe the types of changes that require Association approval and shall include a copy of the procedure used to review and approve or disapprove a proposed change.

F. Annual Report. Within one hundred and twenty (120) days after the close of the fiscal year, the Association shall prepare and distribute to each Owner an annual report for the previous year which includes the following:

- (1) A year-end balance sheet, an income statement and a statement of cash flow for that fiscal year;
- (2) A statement of the location where records of Owner names and addresses are kept.
- (3) Any information required by Corporations Code §8322.

If the Association's gross income exceeds seventy-five thousand dollars (\$75,000.00), the annual report shall be 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 Officer of the Association that the statements were prepared without audit from the books and records of the Association.

3.10 RESERVE STUDY. If the replacement cost of the major components of those portions of the Property which the Association is obligated to repair, replace, or maintain exceeds one-half (1/2) of the Association's gross annual income excluding reserves, at least once every three (3) years the Association shall conduct a competent and diligent visual inspection of the accessible areas of such major components and obtain a study of its reserve requirements. The reserve study shall be conducted by a qualified individual or entity, and shall contain the following information:

- A.** Identification of the major components of the Property which the Association is obligated to repair, replace, or maintain and which have a remaining useful life of less than thirty (30) years;
- B.** An estimate of the remaining useful life of such components;
- C.** An estimate of the cost of repair, replacement, restoration, or maintenance of such components at the end of their useful life;
- D.** An estimate of the total annual contribution necessary to defray such cost after subtracting currently available reserve funds; and
- E.** A "Reserve Funding Plan" that indicates how the Association plans to fund the contribution identified in Subsection D to meet the Association's obligation for the repair and replacement of all major components with an expected remaining life of thirty (30) years or less, not including those components the Board has determined will not be replaced or repaired. The Reserve Funding Plan shall include a schedule of the date and amount of any change in Regular or Special Assessment that would be needed to sufficiently fund such plan. The Reserve Funding Plan shall be adopted by the Board at an open meeting before the

Owners. If the Board determines that an Assessment increase is necessary to fund the Reserve Funding Plan, any increase shall be approved in a separate action of the Board that is consistent with the procedure described in Civil Code 1366.

The Association shall annually review the study and implement necessary adjustments to the reserve component of the Assessments.

3.11 RESERVE FUND ADMINISTRATION.

- A. Reserve Fund Account.** The Association shall deposit operating funds and reserve funds in segregated accounts. Withdrawal of funds from the reserve account shall require the signatures of either two (2) Directors or one (1) Director and one (1) Officer.
- B. Using Reserve Funds.** The Association shall not expend reserve funds for any purpose other than maintenance, repair or replacement, or litigation or arbitration involving maintenance, repair or replacement, of items which the Association is obligated to maintain, repair or replace. When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation or arbitration, the Association shall notify the Owners of the decision and the availability of an accounting with the next available mailing, and thereafter prepare an accounting of the litigation or arbitration-related expenses at least quarterly and make the accounting available for inspection by Owners at the Association office.
- C. Borrowing Reserve Funds.** Reserve funds may be transferred to the operating account to meet short-term cash flow requirements or other expenses if the Board has provided notice of the intent to consider the transfer in a properly prepared and transmitted Board meeting notice which included the reasons the transfer is needed, some of the options for repayment, and whether a Special Assessment may be considered. If the Board authorizes the transfer, it shall issue a written finding, recorded in its minutes, explaining the reasons that 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 (1) year of the date it is initially transferred out, except that the Board may, after giving the same notice required for considering a transfer, and making a written finding, supported by documentation, that a temporary delay would be in the best interest of the Association, temporarily delay the restoration. The Association shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a Special Assessment to recover the full amount of the transferred funds within the time limits required by this Section.

3.12 DOCUMENTS PROVIDED AT OWNER REQUEST. To the full extent and in the manner required by law, the Association shall make its records available for inspection and copying by any Owner or Owner's designee, and by any director.

3.13 MANAGER. The Association may employ, or retain as independent contractor, a

manager to perform all or any part of the Association's delegable duties. Any management contract shall be in writing and provide for the right of termination without a termination fee by either party with immediate notice if for cause, or with contract-specified advance notice of if without cause. The Association shall not delegate the following powers: (i) to borrow money; (ii) to use Association property as security for a debt; (iii) to levy Assessments; (iv) to begin litigation; (v) to make capital expenditures in excess of budgeted amounts; (vi) to impose discipline for violation of the Governing Documents; or (vii) to hold disciplinary hearings.

CC&R ARTICLE 4. ASSOCIATION DECISIONMAKING

4.1 AUTHORITY OF BOARD. In general, all of the activities of the Association shall be conducted, and all powers exercised, by and under the direction of the Board. Whenever the Governing Documents state that the "Association" may or must make a decision, including the enactment, alteration, or repeal of any Rule, the decision is to be made by a vote of the Board rather than by the vote of the Owners. The only exception to these general rules is when the Governing Documents specifically state that a particular decision or action requires the approval of Owners.

4.2 ACTIONS REQUIRING OWNER APPROVAL. The following actions require the approval of Owners, constituting a quorum, casting a majority of the total voting power of the Association:

- A.** Except in an Emergency, (i) retroactively revising the Regular Annual Assessment for a particular year, or (ii) increasing the Regular Annual Assessment more than twenty percent (20%);
- B.** Levying a Special Assessment which, when added to all other Special Assessments levied during the same fiscal year, exceeds five percent (5%) of the budgeted gross expenses for that fiscal year; however, Owner approval shall not be required if the Special Assessment is levied to address Emergency conditions;

The following actions require the approval of Owners representing at least sixty-four (64) Condominiums:

- C.** Changing the allocation of responsibility for maintenance, repair or replacement between the Owners and the Association;
- D.** Transferring any Association property having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for the fiscal year in which the Property is sold;
- E.** Using the proceeds from an insurance claim or from a settlement or judgment of a legal dispute for any other purpose other than to restore the loss or damage for which the recovery was obtained or to fund reserves for future Comon Area maintenance;

- F. Adding, annexing or withdrawing real estate to or from the Property, and granting easements or usage rights affecting the Common Area;
- G. Changing the method of allocating Assessments or voting rights among Owners; and
- H. Approving an expenditure for major repair or capital improvement where the amount of such expenditure will exceed sixty percent (60%) of the budgeted gross expenses for that fiscal year.

The following actions require the approval of Owners representing at least eighty-six (86) Condominiums:

- I. Altering, or redefining the boundaries of a Unit or Exclusive Use Common Area;
- J. Except as otherwise provided in this Second Restated Declaration, abandoning the Property or terminating Association activities prior to the expiration of the term provided in the Governing Documents;
- K. Imposing any restriction of the free alienation or transferability of a Condominium, other than restrictions on the leasing of Units; and
- L. Altering or amending the provisions of this Second Restated Declaration regarding assessment liens, assessment lien priority, insurance, leasing of Units, or repair of the Property following Catastrophic Damage or condemnation.

4.3 ALLOCATION OF OWNER VOTING POWER. In any instance in which a decision is to be made by Owner vote, the voting power of each Condominium shall be as shown on Exhibit A to this Second Restated Declaration.

CC&R ARTICLE 5. ASSESSMENTS AND LIENS

5.1 TYPES OF ASSESSMENTS. There are three types of Assessments: Regular Annual Assessments, Special Assessments and Personal Reimbursement Assessments.

- A. **Regular Annual Assessments.** Regular Annual Assessments shall be levied against all Owners to fund the operating and reserve requirements of the Association as projected in the *pro forma* operating budget prepared in accordance with Civil Code §1365.5. If at any time during the fiscal year, the Association determines that the amount of the Regular Annual Assessments is inadequate or excessive, it may revise it for the balance of the fiscal year.
- B. **Special Assessments.** Special Assessments may be levied against all Owners to defray (i) the cost of construction, repair or replacement of capital improvements to portions of the Property which the Association is obligated to maintain, (ii)

extraordinary expenses of the Association that were not anticipated in the *pro forma* operating budget, or (iii) any other purpose permitted by law.

- C. Personal Reimbursement Assessments.** A Personal Reimbursement Assessment may be levied against any Owner to enforce the Owner's obligations and responsibilities under the Governing Documents.

5.2 USE OF ASSESSMENTS. Revenue raised by Assessments must be used to maintain, preserve and enhance the Property, or to promote the health, safety and general welfare of the Owners.

5.3 DIVISION OF ASSESSMENTS. All Regular and Special Assessments shall be allocated among the Condominiums as shown on Exhibit A to this Second Restated Declaration.

5.4 PAYMENT OF ASSESSMENTS. Regular Annual Assessments shall be assessed against each Owner on the first day of the first month of the fiscal year, and shall be due and payable in equal monthly installments on the first day of each month of the fiscal year, unless the Association adopts some other basis for collection. The Association shall notify each Owner in writing of the amount of the Regular Annual Assessments for the upcoming fiscal year at the same time it distributes the *pro forma* operating budget. In addition, the Association shall notify each Owner in writing of any change in the Regular Annual Assessments or of the levy of any Special Assessment not less than thirty (30) nor more than sixty (60) days before the due date of such changed or Special Assessment. The due date for payment of a Personal Reimbursement Assessment shall be stated in the notice of the assessment and be at least thirty (30) days after notice is given. Assessments are due and payable on their due dates without deduction or offset for any claim an Owner may have against the Association. Each Assessment, together with authorized charges, is the joint and several personal obligation of all Owners of the Condominium against which it is levied. No Owner may exempt him/herself from liability for payment of Assessments.

5.5 DELINQUENT ASSESSMENTS.

- A. Delinquency Timing and Charges.** An Assessment becomes delinquent if payment is not received by the Association within fifteen (15) days after its due date. The Association may impose a late charge of ten percent (10%) or \$10.00, whichever is greater, on delinquent payments as compensation for additional administrative costs. A late charge may be imposed on each delinquent payment, but may not be imposed more than once on any single delinquent payment. The Association may also recover reasonable costs incurred in collecting delinquent Assessments including reasonable attorney's fees. The Association may also charge interest on delinquent payments, late charges, collection costs, and attorney's fees, at the rate of twelve percent (12%) per annum beginning thirty (30) days after the due date and continuing until the date payment is received.
- B. Repeated Delinquency.** If a Regular Annual Assessment installment is not paid within fifteen (15) days of the due date more than three (3) times during a fiscal year, the Association may declare the entire remaining unpaid balance of the

Regular Annual Assessment for that fiscal year immediately due and payable in full by written notice to the Owner.

- C. **Assessment Liens.** A penalty, fine, charge or other financial obligation, including costs and expenses of collection, levied by the Association against an Owner as a Personal Reimbursement Assessment for a violation of the Governing Documents may be made a lien against the Condominium of such Owner, but may not be enforced by nonjudicial foreclosure under Civil Code §§2924, 2924(b) and 2924(c) except as allowed by law. The obligation may be enforced by judicial foreclosure or judicial execution once the obligation is reduced to judgment. A lien for delinquent Regular Assessments and Special Assessments, and a lien for delinquent Personal Reimbursement Assessments levied to reimburse the Association for costs associated with the repair of damage for which an Owner, Occupant or invitee is responsible, may be enforced by nonjudicial foreclosure conducted in accordance with the provisions of Civil Code §§2924, 2924(b) and 2924(c). A delinquent Assessment, regardless of type, plus any late charges, interest, costs of collection or related charges may be made a lien on the delinquent Owner's Condominium by recording a notice of delinquent Assessment with the County Recorder. The notice of delinquent Assessment shall contain the information and meet the other requirements of Civil Code §1367.1(d). Such a lien may be enforced in any manner permitted by law.
- D. **Owner Rights and Remedies.** At least thirty (30) days prior to recording a lien against a Condominium, the Association shall provide to the Owner, by certified mail, a notice ("Owner Notice Of Delinquency") in compliance with Civil Code Section 1367.1(a).
- (1) The Owner may dispute the debt by submitting to the Board a written explanation of the reasons for his/her dispute. The Board shall respond in writing to the Owner within fifteen (15) days of the date of the postmark of the explanation, if the explanation is mailed within fifteen (15) days of the postmark of the Owner Notice Of Delinquency.
 - (2) Under certain limited circumstances as described in Civil Code Section 1366.3, an Owner may use alternative dispute resolution process mentioned in that Section to resolve a dispute regarding Assessments.
 - (3) An owner may submit a written request to meet with the Board to discuss a payment plan for the debt. The Association shall provide the Owner the standards for payment plans, if any exist. The Board shall meet with the Owner in executive session within forty five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days of the date of the postmark of the Owner Notice Of Delinquency, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more directors to meet with the Owner.

- E. Homestead Waiver.** Each Owner waives the benefit of statutory debtor protection, including homestead and exemption rights, to the full extent permitted by California and Federal law with respect to enforcement of Assessment liens.
- F. Payment of Delinquent Assessments.** Payment toward a delinquent Assessment shall be credited first to satisfying the Assessment, and then to late charges, collection costs, attorney's fees and interest. Upon payment of the sums specified in the notice, the Association shall promptly record a notice acknowledging satisfaction and releasing the lien. The lien shall not be affected by the sale or transfer (other than through foreclosure) of the affected Condominium.

5.6 STATUS CERTIFICATE. Upon written request of an Owner, the Association shall provide an Owner with a written statement, signed by an authorized representative of the Association, stating the amount of all unpaid Assessments, fines, penalties, charges and other financial obligations owed to the Association by the Owner as of the date of the statement. The statement shall be conclusively presumed accurate as of its date in favor of any good faith purchaser of a Condominium who relies on it. The Association may charge a reasonable fee for the statement which shall not exceed the actual administrative cost.

CC&R ARTICLE 6. MAINTENANCE AND ALTERATION

6.1 OWNER MAINTENANCE RESPONSIBILITY.

- A. Owner's Unit.** Each Owner shall maintain, repair and replace all elements of his/her Unit in a condition which does not impair the value or desirability of other Condominiums and the Property as a whole.
- B. Owner's Exclusive Use Common Area.** Each Owner shall maintain, repair and replace the following elements of any storage area, interior parking area, or interior stair area assigned to him/her in a condition that does not impair the value or desirability of other Condominiums and the Property as a whole: (i) any finished wall, floor, or ceiling, surfaces which serve only his/her assigned area, and (ii) all elements (except exterior paint) of any door and window, including the opening mechanism, which serve only his/her assigned area.
- C. Damage To Other Units Or Common Area.** Each Owner is responsible for the costs of all maintenance, repair or replacement of all areas of the Property necessitated (i) by the acts or omissions of him/herself, his/her guests and invitees (including independent contractors and employees), the Occupants of his/her Unit and the guests and invitees of such Occupants, or (ii) as a consequence of the malfunction of any element which the Owner is responsible to maintain. The provisions of this Subsection C are intended to supersede any conflicting provisions of Subsections of 6.1A or B or 6.2A or B.
- D. Consequences Of Owner's Failure To Maintain.** If an Owner fails to satisfy

his/her maintenance or repair requirements, including requirements created by the conduct of others, the Association may do so and assess any associated expense as a Personal Reimbursement Assessment.

6.2 ASSOCIATION MAINTENANCE RESPONSIBILITY .

- A. Common Area.** The Association shall maintain, repair and replace all Common Area which is not Exclusive Use Common Area in good condition and repair.
- B. Exclusive Use Common Area.** The Association shall maintain, repair and replace all elements of Exclusive Use Common Area which are not required to be maintained by an Owner under Section 6.1B in good condition and repair.
- C. Consequential Damages.** The Association is responsible for the costs of all maintenance, repair or replacement of all areas of the Property necessitated (i) by the conduct and behavior of its invitees (including independent contractors and employees), or (ii) as a consequence of the malfunction of any element which the Association is responsible to maintain. The provisions of this Subsection C are intended to supersede any conflicting provisions of Section 6.1A or B.

6.3 ALTERATION OF UNITS. Without Association approval, an Owner may make alterations within the boundaries of his/her Unit that do not impair the structural integrity or mechanical systems, or impair the value or desirability of other Condominiums. All other improvements shall require Association approval. Regardless of whether Association approval is required, prior to making any alteration, an Owner shall (i) obtain all required governmental permits and approvals and (ii) in cases where a building permit is required, provide a copy of the building permit application to the Association at least ten (10) calendar days before commencing work.

6.4 ALTERATION OF COMMON AREA. In general, Common Area, including Exclusive Use Common Area, may be physically altered only with Association approval. Nevertheless, the following alterations of Exclusive Use Common Area are permitted without approval:

- A. Permitted Alterations Of Interior EUCA.** Alterations of Interior Exclusive Use Common Area that do not impair the structural integrity or mechanical systems of the Property, impair the value or desirability of other Condominiums, alter the exterior appearance of the Property, or substantially change the usage of the space; and
- B. Signs.** Display of (i) non-commercial signs, posters, flags or banners which the Association is required by law to permit, and (ii) "For Sale" or "For Rent" signs that do not exceed nine (9) square feet in size on portions of the Common Area designated by the Association. All other signs, posters, flags or banners require Association approval.

Before making any alteration, regardless of whether approval is required, an Owner shall (i) obtain all required governmental permits and approvals and (ii) in cases where a building

permit is required, provide a copy of the building permit application to the Association at least ten (10) calendar days before commencing work.

6.5 ALTERATION APPROVAL PROCEDURES.

A. Application For Alteration Approval. Owners wishing to make alterations requiring Association approval shall submit "Plans and Specifications" to the Association. "Plans and Specifications," as used in this Article, shall include the following:

- (1) A description of the proposed alteration, including, as appropriate, its shape, height, width, elevation, materials, color, location and such further information as may be necessary to allow the Association to evaluate it fully;
- (2) Upon request of the Association, a certificate by an architect or engineer licensed by the State of California stating that the alteration (i) will not impair the structural integrity of any part of the Property, and (ii) will not interfere with any Utility; and
- (3) Upon request of the Association, a set of construction drawings prepared by an architect and/or engineer licensed by the State of California.

The Association may require as much detail in the Plans and Specifications as it deems appropriate, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and samples of exterior material and colors. The Association may postpone review of any application until receipt of all required information and materials. Upon submittal of all required information and documentation, the Association shall give the Owner a written, dated receipt. The date of the receipt shall be the commencement date for computing the time within which the Association must approve or disapprove the application. The Association may charge a reasonable fee for reviewing an application.

B. Time Limit and Form For Association Decision. The Association shall act upon each alteration approval application within forty-five (45) days after receipt of all materials required or requested by the Association or, failing that, at the first Board Meeting thereafter before any other business is undertaken at such Meeting. As soon as reasonably possible thereafter, the Association shall notify the applicant in writing of its decision. If a proposed change is disapproved, the written decision shall include both an explanation of why the proposed change is disapproved and, where the decision was made by an Architectural Committee, a description of the procedure for reconsideration by the Board.

C. Standards For Association Decision. The Association decision must be made in good faith and may not be unreasonable, arbitrary, or capricious. The Association shall approve an alteration only if it makes an affirmative finding that the alteration (i) will not impair the structural integrity of any part of the Property, (ii) will not interfere with any Utility, (iii) is consistent with the

Governing Documents and all Governmental Regulations, (iv) will not detract from the appearance, harmony, attractiveness and enjoyability of the Property, and (v) will not impose an unreasonable maintenance burden on the Association. The approval or disapproval of an alteration shall not be deemed a waiver of the Association's subsequent right to approve or disapprove a similar alteration or any other matter.

- D. Architectural Rules.** The Association may enact rules (the "Architectural Rules") to govern alteration approvals. The Architectural Rules shall be consistent with the Governing Documents. The Association shall follow the procedure for adopting and changing Architectural Rules described in Civil Code Sections 1357.100 et. seq.
- E. Decisionmaking Body.** The Board may establish a committee (the "Architectural Committee") to recommend Architectural Rules and govern alteration approvals. Whenever an Architectural Committee exists, it shall act on behalf of the Association with regard to alteration approvals. Any decision of an Architectural Committee may be appealed to the Board within ten (10) days of the decision, and the Board shall reconsider the decision at a properly noticed open Board meeting. During any period when there is no Architectural Committee, the Board shall act on behalf of the Association with regard to alteration approvals.
- F. Proceeding With Approved Work.** Upon approval of an alteration, the Owner shall diligently proceed with the commencement and completion of all work so approved. Work must be commenced within one (1) year from the date of the approval. If the Owner fails to comply with the provisions of this Subsection, the approval given shall be deemed revoked unless the Association extends the time for commencement. Any request for an extension shall be in writing. No extension shall be granted unless the Association finds that there has been no change in the circumstances under which the original approval was granted.

6.6 INSPECTION AND NONCOMPLIANCE. Upon the completion of any work performed by an Owner for which approval was required, the Owner shall give written notice of completion to the Board. The Board, following seventy-two (72) hours prior written notice to one of the Occupants of the Condominium, may inspect any work performed on the Property to ensure it is done in accordance with this Article, regardless of whether approval was required or granted, and regardless of whether notice of completion was required or given. If, as a result of an inspection, the Board finds a violation of this Article, it may notify the Owner in writing of the violation. The notice shall specify the particulars of non-compliance and shall require the Owner to remedy it. If the Owner fails to remedy the non-compliance in accordance with the provisions of the notice, then, after the expiration of thirty (30) days from the date of the notice, the Board shall provide notice of a hearing to consider the Owner's continuing non-compliance. At the hearing, if the Board finds that there is no valid reason for the continuing non-compliance, the Board shall require the Owner to remedy it within a period of not more than forty-five (45) days from the date of the Board's ruling. At any time within such period, or within any extension of such period as the Board, in its discretion, may grant, the Board may choose not to wait for the Owner to act, and instead the Board may act to remedy the non-compliance, and assess any associated costs against the Owner as a Personal Reimbursement Assessment. The Association may also cause a notice of nonresponsibility for mechanics' liens

to be recorded and posted as specified in Civil Code §3094. Any officer, director, or Architectural Committee member shall promptly notify the Association upon learning of any violation of this Article.

CC&R ARTICLE 7. USE RESTRICTIONS

7.1 CONDOMINIUM USE. The Property shall be used solely for residential purposes, except that an Occupant may engage in a professional or administrative occupation within the Property if (i) it is merely incidental to the use of the Unit as a residence, (ii) it conforms to all applicable Governmental Regulations, and (iii) there is no external evidence of business activity.

7.2 PARKING AND USE OF MOTOR VEHICLES. Parking spaces shall be used solely for parking of automobiles, station wagons, pickup trucks, motorcycles and light vans. No commercial vehicle or recreation vehicle (including camper unit, motor home, trailer, bus or boat) shall be parked or stored on the Property. The parking area shall not be used for living, recreational or business purposes. Repair of a motor vehicle is not permitted anywhere on the Property. Each Owner and Occupant shall indemnify, defend and hold harmless the Association and its Board, officers, manager, employees, and other Owners and Occupants against any and all loss, cost or liability including attorney's fees, arising out of claims related to his/her ownership, maintenance or use of motor vehicles on the Property.

7.3 REMOVAL OF MOTOR VEHICLES. The Association, an Owner or person in lawful possession of a Unit may cause the removal of a wrongfully parked motor vehicle, or a permanently parked motor vehicle (as defined by the Rules), to the nearest garage provided the following requirements are met:

- A.** There is a sign displayed in plain view at all entrances to the Property not less than 17 by 22 inches in size with letter in not less than one inch in height and contains both of the following:
 - (1) A statement that public parking is prohibited and all vehicles not authorized to park on the Property will be removed at the owner's expense.
 - (1) The telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the Association. The sign may also indicate that a citation may be issued for the violation.
- B.** Within one (1) hour of authorizing the tow, the person causing the removal of the vehicle notifies by telephone, or if impractical the most expeditious means available, the local traffic law enforcement agency of the tow and states the grounds for causing the removal of the vehicle.
- C.** The person causing the removal of the vehicle otherwise complies with all Governmental Regulations including California Vehicle Code Section 22658.

7.4 NUISANCE. No person shall use any part of the Property in a way that unreasonably interferes with the quiet enjoyment of an Occupant, or which is noxious, illegal, seriously annoying or offensive to a person of reasonable and normal sensitivity. The Association shall have wide discretion to determine what constitutes a nuisance, and the duty to order those responsible to cease or abate such nuisance immediately. There shall be no exterior fires except in barbecue receptacles designed for that purpose. No activity may be carried on that adversely affects insurance coverage or rates on the Property. No Owner shall do or permit anything to be done which is in violation of a Governmental Regulation or which will or may decrease the attractiveness, desirability or value of another Unit or the Property as a whole.

7.5 ANIMALS. An Occupant may keep domestic dogs, cats, fish, and birds provided he/she (i) does not keep his/her animal(s) for commercial purposes, (ii) maintains reasonable control over his/her animals at all times, (iii) keeps his/her dog(s) on a hand-held leash when outside a Unit, (iv) immediately cleans up after his/her animal(s), (v) thereby becomes liable to the Association and all persons for any damage caused by his/her animal(s), and (vi) thereby agrees to indemnify, defend and hold harmless the Association and its Board, officers, manager, employees, and other Owners and Occupants against any and all loss, cost or liability including attorney's fees, arising out of claims related to his/her pet. The Occupants of a single Unit shall collectively keep no more than two (2) four-legged animals. The Association can prohibit the keeping of any animal that it determines to be a nuisance to any person of reasonable and normal sensitivity.

7.6 GARBAGE DISPOSAL. Occupants shall keep (i) all waste in proper containers, (ii) all waste containers in portions of the Common Area designated by the Association, and (iii) all waste containers and adjacent portions of Common Area in a neat, clean and sanitary condition.

7.7 RIGHT TO LEASE. An Owner or Occupant may rent out his/her Condominium provided that (i) the rental agreement is in writing, (ii) the rental is made subject to the Governing Documents, and (iii) the tenant agrees to abide by all provisions of the Governing Documents. An Owner shall be responsible for ensuring the compliance with the Governing Documents by everyone residing in the Owner's Unit. Each Owner hereby grants the Association an irrevocable power of attorney to commence and pursue injunctive relief or an unlawful detainer action against a tenant who is in violation of the Governing Documents.

7.8 CLOTHES LINE. There shall be no exterior clothes lines or outside laundering or drying of clothes.

7.9 WINDOW COVERINGS. Unless otherwise approved by the Association, all window coverings visible from the street, Common Area, parking lot or pathways shall be of a material and type commonly used for window coverings, and shall be of a neutral color on the portion visible from the street.

7.10 STORAGE. Within interior Exclusive Use Common Area designated for storage, Occupants may store any non-hazardous material provided it is organized in a manner which does not create a fire hazard or impair the value or desirability of any Unit. No one may store any item in other Common Area without prior written Association approval.

7.11 DELEGATION OF RIGHTS. Any Occupant of an Owner's Unit shall be entitled to all of that Owner's rights to use and enjoy the Property.

CC&R ARTICLE 8. INSURANCE

8.1 GENERAL LIABILITY INSURANCE. The Association shall maintain an insurance policy insuring the Association, its directors, officers and the Owners against public liability incident to ownership and use of the Property. The limits of coverage shall not be less than three million dollars (\$3,000,000) per incident of injury, death and property damage. The policy shall contain a severability of interest endorsement precluding the insurer from denying coverage to a named insured because his/her act or omission created liability in favor of another insured. The policy shall also contain a contractual liability endorsement.

8.2 DIRECTORS' AND OFFICERS' LIABILITY INSURANCE. The Association shall maintain an insurance policy insuring the Association, its directors and officers against liability arising out of acts or omissions in their capacity as agents of the Association. The limits of coverage shall not be less than one million dollars (\$1,000,000) per incident. The policy shall provide prior acts coverage.

8.3 FIRE AND CASUALTY INSURANCE. The Association shall maintain a policy of fire and casualty insurance providing multi-peril coverage for all Common Area (including all Exclusive Use Common Area), and all Association property. The policy shall not cover any property within the boundaries of a Unit. The limits of coverage shall not be less than full current replacement cost including required building code upgrades. The policy shall contain an agreed amount endorsement.

8.4 OTHER INSURANCE. The Association may acquire such additional insurance, coverages or limits as it deems advisable. The Association may maintain a fidelity bond or equivalent insurance on all individuals handling Association funds. If the Association has employees, it shall maintain workers' compensation insurance as required by law.

8.5 GENERAL POLICY PROVISIONS. Each Association insurance policy shall (i) name the Association as trustee for policy benefits payable to the Owners, (ii) provide a waiver of subrogation rights against the Association, its directors, officers and Owners, (iii) state that coverage be primary and not affected by any other insurance held by an Owner, and (iv) require that at least thirty (30) days prior written notice be given to the Association by the insurer before cancellation.

8.6 INSURER RATING. The Association's insurance shall be written by an insurance company qualified to do business in California with a rating of at least an "A" by Best's Insurance Reports or equivalent.

8.7 REVIEW OF INSURANCE POLICIES. The Board shall review all Association insurance policies at least once a year to ensure that they are adequate to meet the current needs of the Association.

8.8 NOTICE OF CHANGE IN INSURANCE COVERAGE. The Association shall notify

the Owners by first-class mail as soon as reasonably practical if any of its insurance policies: (i) lapses or is canceled and is not immediately renewed, restored or replaced; (ii) will undergo significant change such as a reduction in coverage or limits, or an increase in the deductible; or (iii) is subject to a notice of nonrenewal and replacement coverage will not be in effect at the time the existing coverage will lapse.

8.9 INABILITY TO OBTAIN INSURANCE. If the insurance required by the Governing Documents is difficult, impractical or unduly expensive to obtain, the Association shall obtain insurance as nearly equivalent to the required insurance as is reasonably available.

8.10 OWNER'S INSURANCE. Each Owner shall obtain and maintain a policy of fire and casualty insurance providing multi-peril coverage for the Owner's Unit, including all doors and interior portions of windows, all cabinets and other fixtures, and all finishes and appliances, and for all personal property within the Unit or appurtenant Exclusive Use Common Area. The policy shall contain a waiver of subrogation rights against the Association and other Owners. Each Owner shall also obtain and maintain insurance covering his/her personal liability.

8.11 CASUALTY INSURANCE DEDUCTIBLES AND PROCEEDS. The deductible payable in the event of a loss shall be paid by the person(s) or entity responsible for maintenance at the point of origin of the physical damage. The person(s) or entity who pays the deductible shall have the right to recover such amount from any party responsible for the loss. Proceeds from Association insurance received as a consequence of damage or loss to a portion of the Property which an Owner must maintain shall be distributed to that Owner. If the proceeds are insufficient to complete the work, the Owner shall pay the additional amounts.

CC&R ARTICLE 9. CATASTROPHIC DAMAGE AND CONDEMNATION

9.1 CATASTROPHIC DAMAGE. As used in this Section, "Catastrophic Damage" means sudden and unexpected physical damage to portions of the Property which the Association is obligated to maintain for which the repair cost will exceed fifty percent (50%) of the full replacement cost of all portions of the Property which the Association is obligated to maintain.

- A. Determining Extent Of Damage.** Immediately after the occurrence of Catastrophic Damage, the Association shall obtain two (2) or more written bids from separate licensed contractors to restore the damaged elements to substantially the same condition as existed before the damage occurred. Repair bids shall include at a minimum a detailed scope of work, fixed or not-to-exceed contract price, completion date and provision for adequate insurance coverage by the contractor.
- B. Determining Availability Of Repair Funds.** After obtaining repair bids, the Association shall promptly determine the amount of funds available for the repair from insurance, reserves, loans, and any other source. In making this determination, the Association shall consider as available any insurance

proceeds payable to any Owner for repair or replacement of any of the damaged elements.

- C. Decision To Rebuild.** Provided that repairing the damaged areas of the Property would not necessitate a Special Assessment of more than one hundred thousand dollars (\$100,000) on any Unit, the Association shall repair, and any difference between the total funds available and the actual repair cost shall be imposed as a Special Assessment. Any Owner who receives insurance proceeds for repair or replacement of any of the damaged elements that the Association is required to repair shall provide such proceeds to the Association in addition to his/her portion of the Special Assessment. If repair would necessitate a Special Assessment on any Unit of more than the greater of either two hundred fifty thousand dollars (\$250,000), or seventy five percent (75%) of the Association's budgeted gross expenses for that fiscal year, the Association shall not repair unless sixty seven percent (67%) of the total voting power of the Association votes to do so. If the Association does not repair, it shall sell the entire Property in its then existing condition on the best available terms. Each Owner hereby grants the Association an irrevocable power of attorney to represent the Owner in any negotiations or agreements related to sale or other liquidation following Catastrophic Damage. The sale proceeds together with any insurance proceeds, net of any expenses associated with necessary stabilization of the Property and fees associated with disposition of the Property, shall then be distributed as provided in Section 9.3 of this Second Restated Declaration. The Association shall then be dissolved and the entire common interest development terminated as provided by law. If the Association fails to sell the Property within a reasonable period of time, it may bring an action for judicial partition.
- D. Repair Work.** All individuals or entities performing repairs for the Association shall (i) hold all licenses legally required for such repairs and (ii) enter into a written contract with the Association which satisfies all of the requirements for repair bids specified in Subsection A. Payment and performance bonds shall be required in repair contracts exceeding one hundred thousand dollars (\$100,000). The Association shall ensure that repairs are diligently pursued to completion in accordance with best construction practices prevailing in the locale at the time the work is done.
- E. Emergency Repair.** The Association may make repairs or take any other necessary action in an Emergency without first complying with the provisions of this Article.
- F. Certification Of Intention.** If the Association decides, by affirmative act or failure to act, to sell the Property rather than repair Catastrophic Damage, it shall promptly notify all Owners in writing of the decision and record a certificate reciting that fact with the County Recorder.
- G. Revision Of Documents.** If the Association decides, by affirmative act or failure to act, not to repair Catastrophic Damage, the Association shall have the power and authority to execute and record, on behalf of itself and the individual Owners, all necessary documents to show the altered status of the Property, including but not limited to a revised Condominium Plan.

9.2 CONDEMNATION. Each Owner hereby grants the Association an irrevocable power of attorney to represent the Owner in any condemnation or eminent domain negotiation or proceeding, whether or not a civil action has been started. The proceeds from a taking of two or more Condominiums or of the Common Area by eminent domain shall be distributed as provided in Section 9.3 of this Second Restated Declaration.

9.3 DISTRIBUTIONS. All net proceeds from insurance, liquidation, or condemnation relating to two or more Condominiums or the Common Area shall be paid to the Association for the benefit of the Owners and their mortgagees. To the extent proceeds from insurance or condemnation have been allocated among affected Units and Common Area by the paying entity, the Association shall distribute such funds in accordance with that allocation. Otherwise, the Association shall distribute these funds to the affected Owners based upon the relative value of the affected Owners' Condominiums. Relative value shall be determined through an appraisal process. The Association shall instruct the appraiser to determine the fair market value of each Condominium involved in the relative valuation. The appraiser shall base the valuation on the physical conditions that existed on the date immediately preceding the destruction or other event triggering the need for valuation. The Association shall use the appraisal for each Condominium to determine the relative values. If any Owner owes money to the Association at the date of the disbursement, the amount owed shall be subtracted from the amount to be disbursed to that Owner.

CC&R ARTICLE 10. MORTGAGE PROTECTION

10.1 SUBORDINATION. Any lien created or claimed under this Second Restated Declaration is subject and subordinate to the rights of any previously recorded Mortgage secured by the same Property made in good faith and for value; and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. On foreclosure of a previously recorded Mortgage, the foreclosure-purchaser shall take title free of any Assessment liens and shall be obligated to pay only assessments or other charges levied or assessed by the Association that became due or payable on or after the foreclosure-purchaser acquired title. The subsequently levied assessments or other charges may include previously unpaid assessments, provided all Owners including the foreclosure-purchaser and his successors and assigns are required to pay their proportionate share.

10.2 FIRST REFUSAL INAPPLICABLE TO MORTGAGEE. Any right of first refusal or option shall bind a Mortgagee and shall not impair the rights of a Mortgagee (i) to foreclose or take title pursuant to the remedies provided in the Mortgage, (ii) to accept a deed (or assignment) in lieu of foreclosure in the event of default under the Mortgage, or (iii) to sell or lease a separate interest acquired by the Mortgagee following a Mortgage default.

10.3 MORTGAGEE RIGHT TO FURNISH INFORMATION. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

10.4 FORMER OWNER IN POSSESSION FOLLOWING FORECLOSURE. A former Owner who loses title by foreclosure but remains in possession shall be bound by the Governing Documents as long as he/she remains in possession, but shall have no obligation to pay Assessments accruing after the date title is transferred.

10.5 MORTGAGEE PRIORITY IN DISTRIBUTION OF PROCEEDS. Each Mortgagee shall have priority over the rights of the Owner of the mortgaged property in case of a distribution to the respective Owner of insurance proceeds or condemnation awards for losses to or a taking of such Owner's interest in the Property. Any provision to the contrary in the Governing Documents is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected Mortgagees, naming such Mortgagees as their interests may appear.

10.6 DEFINITION OF ELIGIBLE MORTGAGEE. An "Eligible Mortgagee" is the holder of a Mortgage given to secure payment of a portion of the purchase price of a Condominium and which has requested designation as an Eligible Mortgagee in writing by registered mail, return receipt requested, within ten (10) days of the creation of the mortgage or deed of trust. In order to maintain eligibility, an Eligible Mortgagee must renew its request for such designation in the same manner each year within ten (10) days of the anniversary date of its initial request. The original request and each renewal request shall include the debtor's name, loan number, current holder of the promissory note or other obligation, amount of the unpaid principal, and address and assessor's parcel number of the encumbered parcel. Strict compliance with this paragraph is required.

10.7 MORTGAGEE APPROVAL REQUIREMENTS. The prior written consent (or deemed consent as provided below) of Eligible Mortgagees holding mortgages on at least fifty-one percent (51%) of all separate interests encumbered by Mortgages shall be required to take any of the following actions:

- A. Except as otherwise provide in this Second Restated Declaration for cases of Catastrophic Damage, use hazard insurance proceeds for a purpose other than the repair, replacement, or reconstruction, abandon the Property, or terminate the Association;
- B. Change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner, or to change the pro rata interest or obligations of any Owner for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or for determining the pro rata share of ownership of each Owner in the Common Area;
- C. Abandon, partition, subdivide, encumber, sell or transfer the Common Area (but the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association or the Owners shall not be deemed to be a transfer within the meaning of this clause);
- D. Fail to maintain fire and extended coverage insurance on insurable property owned by the Association, including any Common Area improvements, in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost; and
- E. Materially amend any provision of the Governing Documents that are for the express benefit of Mortgagees.

Any Mortgagee who receives a written request to consent to additions or amendments requiring consent under this provision who does not deliver or post to the requesting party a negative response within thirty (30) days after such receipt shall be deemed to have consented to such request. Failure to obtain the prior written approval of Eligible Mortgagees shall not be construed to (i) invalidate the effect of any action on an Owner who was not previously a Mortgagee, (ii) invalidate the effect of any action on a Mortgagee which acquired its Mortgage after recordation of a document describing the action, or (iii) impede the Association in enforcing the Governing Documents.

10.8 MORTGAGEE NOTICE RIGHTS. Each Eligible Mortgagee shall be entitled to written notice of the following:

- A. The occurrence of loss, casualty, condemnation or eminent domain which decreases the value of the property encumbered by its Mortgage by more than fifty percent (50%) of its fair market value immediately prior to the occurrence;
- B. Association commencement of judicial or nonjudicial foreclosure proceedings to enforce payment of delinquent obligations owed under the Governing Documents against, the Owner of its encumbered property; and
- C. Any lapse or cancellation of any Association insurance policy.

Failure of an Eligible Mortgagee to receive the notice required by this Section shall not be construed to benefit an Owner or to impede the Association in enforcing the Governing Documents.

10.9 MORTGAGEE INFORMATION RIGHTS. A Mortgagee is entitled to obtain the same information as an Owner from the Association upon written request and payment of required fees.

10.10 MORTGAGEE RIGHT TO APPEAR AT MEETINGS. Because of its financial interest in the Property, any Mortgagee may appear (but cannot vote, except as otherwise provided hereunder), at meetings of Owners and the Board to draw attention to violations of this Second Restated Declaration that have not been corrected or that have been made the subject of remedial proceedings or assessments.

CC&R ARTICLE 11. GENERAL PROVISIONS OF DECLARATION

11.1 AMENDMENT OF DECLARATION. This Second Restated Declaration may be amended with the approval of a majority of Units provided that the amendment would not effectively circumvent more specific voting requirements within the document.

11.2 CERTIFICATION OF APPROVAL AND RECORDATION. An amendment of this Second Restated Declaration shall become effective when an authorized officer of the Association has executed and recorded with the County Recorder both (i) the amendment and (ii) a notarized certificate stating that the required number of Units have approved the

amendment. The Association shall distribute a copy of the amendment to each Owner as soon as it becomes effective.

11.3 MANNER OF PROVIDING NOTICES, DOCUMENTS AND REPORTS. A notice, document or report permitted or required by the Governing Documents shall be in writing and deemed received by the person to whom it is given upon either (i) personal delivery, (ii) expiration of forty-eight (48) hours after deposit in the United States mail (first-class, registered or certified), postage prepaid and addressed to the current or, if unavailable, to the last known address of the person to be notified, or (iii) when permitted by law, by electronic transmittal. Notice to the Association shall be given to its President. When Co-Owners own a Unit, a transmittal to any of them shall be deemed a transmittal to all of them. When several Occupants share a Unit, a transmittal to any of them shall be deemed a transmittal to all of them.

11.4 DISPUTE RESOLUTION.

- A. Internal Procedure.** In any dispute between the Association and an Owner which is not governed by the Owner discipline procedures described in Section 3.2, the alteration approval procedures described in Section 6.5, or the alteration non-compliance procedures described in Section 6.6, either party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing. An Owner may refuse such a request, but the Association may not. When a meet and confer request is accepted, the Board shall designate a director to meet and confer, and the Owner and designated director shall meet promptly at a mutually convenient time and place. The designated director must make him/herself available for the meeting within thirty (30) days of the meet and confer request by an Owner. At the meeting, the parties shall explain their positions to each other, and confer in good faith in an effort to resolve the dispute. If the dispute is resolved, it shall be memorialized in writing as an agreement, and signed by the Owner and the director. Such an agreement shall bind the Owner and the Association, and shall be judicially enforceable (subject to the binding arbitration requirements of this Declaration), provided (i) it is not in conflict with law or the Governing Documents, and (ii) it is either consistent with the authority granted by the Board to the designated director or is later ratified by the Board. An Owner shall not be charged a fee to participate in this process. Neither an Owner nor the Association shall be required to participate in this process if the dispute is related to Owner discipline subject to the procedural requirements of Section 3.2, alteration approval subject to the procedural requirements of Section 6.5, or alteration non-compliance procedural requirements of Section 6.6.
- B. Mediation.** Mediation is a voluntary informal attempt to resolve a dispute with the help of a neutral individual who has no decision-making authority. The Association encourages mediation and shall participate in mediation in an effort to resolve disputes related to the Governing Documents, unless the Association determines that immediate action is necessary or that mediation under the circumstances would not be in its best interest. Mediation may occur before, during, or after arbitration or litigation. Unless otherwise agreed, mediation costs shall be shared equally by the participants.

C. Arbitration. Arbitration is a voluntary or mandatory method of resolving a dispute by delegating decision making authority to a neutral individual or panel. Any dispute relating to the Governing Documents shall be resolved through mandatory arbitration by the American Arbitration Association or another private arbitration service or individual acceptable to all parties. Any party affected by a dispute may initiate arbitration by written demand. All parties shall pursue arbitration to a conclusion as quickly as possible and conclude every case within six (6) months from the date of the initial written demand for arbitration. Arbitrators shall have discretion to allow the parties reasonable and necessary discovery in accordance with Code of Civil Procedure §1283.05, but shall exercise that discretion mindful of the need to promptly and inexpensively resolve the dispute. If a party subject to the Governing Documents refuses to proceed with or unduly delays the arbitration process, any other party may petition a court for an order compelling arbitration or other related act, and shall recover all related expenses, including attorney's fees, unless the court finds that the party against whom the petition is filed acted with substantial justification or that other circumstances make the recovery of such expenses unjust. An arbitration award may be entered as a court judgment and enforced accordingly. The arbitration award shall be binding (i) unless the award declares a provision of this Second Restated Declaration unenforceable or (ii) unless the award is in excess of twenty five thousand dollars (\$25,000), in which cases any party may obtain a trial *de novo* in court of appropriate jurisdiction provided he/she files a civil complaint within sixty (60) days of the entry of a final judgment on the arbitration award. The pendency of arbitration shall toll all applicable statutes of limitation.

D. Special Disputes. The following matters are not subject to the mandatory binding arbitration provisions of this Declaration; however, litigation relating to these matters shall be subject to the alternative dispute resolution requirements of Civil Code Section 1369.510 et. seq., as applicable:

- (1) An attempt to recover possession of real property through an unlawful detainer;
- (2) Except as specifically provided in Civil Code Section 1366.3, enforcement of an obligation to pay an Assessment;
- (3) A Partition pursuant to Civil Code §1359;
- (4) A claim for bodily injury or wrongful death; and
- (5) Recordation of a notice of pending action, or an order of attachment, receivership, injunction or other provisional remedy which may provide interim protection during the pendency of an arbitration proceeding.

11.5 OWNER'S ACCOUNTABILITY. Each Owner is responsible to the Association for the conduct and behavior of Occupants of the Owner's Unit, including but not limited to violations of the Governing Documents.

11.6 INDEMNIFICATION. Absent gross negligence, intentional misconduct or fraud, the Association shall indemnify its directors, officers and committee members to the fullest extent permitted by law against all liability and expenses, including reasonable attorney's fees, arising out of a claim based upon a wrongful act or omission in the scope of their duties on behalf of the Association. The Association shall approve or disapprove the indemnity, and may advance expenses, in accordance with Corporations Code §7237.

11.7 COSTS AND ATTORNEY'S FEES. The party who prevails in an arbitration, civil action or other proceeding to enforce or interpret the Governing Documents shall be entitled to recover all costs and expenses, including reasonable attorney's fees, but the arbitrator, judge or other decision maker shall have final discretion to allocate such costs and expenses between the parties in a manner that will accomplish substantial justice.

11.8 TERM OF RESTATED DECLARATION. This Second Restated Declaration shall continue for a term of twenty (20) years from the date it is recorded unless superseded or terminated sooner. The term shall be automatically extended for successive periods of ten (10) years, unless the Association is terminated, and it records with the County Recorder a notice of termination prior to the commencement of the next period.

11.9 NOTICE OF TRANSFER. An Owner who transfers any ownership interest in a Condominium, whether by sale, lease, gift, exchange or otherwise, shall promptly notify the Association in writing of the name and address of the transferee, the type of transfer, the date of transfer and any other information about the transfer that the Association may reasonably request.

11.10 ADDITIONAL GENERAL PROVISIONS. Any uncertainty or ambiguity in the Governing Documents shall be resolved by reference to the following rules of interpretation: (i) the provisions of the Governing Documents shall be liberally interpreted to facilitate the operation of a common interest development and liberally interpreted to preserve and protect the general plan established for mutual and common benefit of all Owners, and (ii) a more specific provision shall prevail over a more general one. In the event of an inconsistency between this Second Restated Declaration and the Condominium Plans, the Condominium Plans shall control. In the event of an inconsistency between this Second Restated Declaration and the First Restated Bylaws, this Second Restated Declaration shall control. Both this Second Restated Declaration and the First Restated Bylaws shall control over an inconsistent provision in the Rules. Each provision of the Governing Documents is independent and severable, and may be enforced even though another provision may be unenforceable. Each Owner grants an irrevocable power of attorney to the Association to carry out the provisions of this Second Restated Declaration. References to particular statutes of the State of California shall include any amendment of the statute. If a particular statute is repealed, reference to the statute shall include another statute which thereafter governs the same subject.

11.11 CERTIFICATE OF PRESIDENT. Pursuant to Civil Code §1355(a), I, the undersigned, declare under penalty of perjury that the following facts are true and correct of my own personal knowledge:

- A. I am the duly elected President of the GOLD BEND CONDOMINIUM ASSOCIATION.
- B. The required percentage of Owners have given their approval to amend the currently effective Declaration of Covenants, Conditions and Restrictions by adopting this Second Restated Declaration of Covenants, Conditions and Restrictions.

Executed in ~~Placer~~ ^{Alameda} County, California on 4/25/2012



President of
GOLD BEND CONDOMINIUM ASSOCIATION

4/25/2012
DATE

GOLD BEND CONDOMINIUM ASSOCIATION

FIRST RESTATED BYLAWS

The name of the Association is GOLD BEND CONDOMINIUM ASSOCIATION. The principal office of the Association is located at Truckee, California. The term "Declaration" shall mean the Second Restated Declaration of Covenants, Conditions and Restrictions applicable to the Property recorded on April 19, 2012 (date) at Doc - 2012-0034585-00 in the Official Records of County of Placer California. Other Terms defined in the Declaration shall have the definitions stated therein which are incorporated by reference into these Bylaws.

BYLAWS ARTICLE 1. OWNER MEETINGS AND VOTING

1.1 MEMBERSHIP IN THE ASSOCIATION. Every Owner is a member of the Association while he/she owns a Condominium. Membership ceases when Ownership ceases. Membership is an integral part of, and automatically passes with, the ownership of a Condominium.

1.2 VOTING RIGHTS. There is one vote per Unit. Fractional votes by Co-Owners are not allowed. If Co-Owners are unable to agree how to cast the vote for a Unit on a matter, they shall lose their vote on that matter. If a single vote is cast on behalf of a Unit, the vote shall be conclusively presumed to have been cast on behalf of all Owners of the Unit unless written notice contesting the right to vote is actually received by the inspector(s) of elections or, if there is/are none, by the Secretary, before the election is held. If multiple votes are cast on behalf of a Unit, all shall be disregarded. The Association may, after notice and a hearing, suspend the voting rights associated with a Unit and right of its Owner to hold office (i) during any period while Assessments associated with the Unit are delinquent and (ii) for a period of up to thirty (30) days for each infraction of the Governing Documents by an Owner or Occupant of the Unit.

1.3 OWNER MEETINGS.

A. Timing and Location of Owner Meetings. Annual Owner Meetings shall be held once each calendar year on a weekday during the second half of the calendar year as scheduled by the Board. A Special Owner Meeting shall be promptly scheduled upon a vote of the Board or upon written request of Owners entitled to cast votes of more than five percent (5%) of the Units. All Owner Meetings held at a physical location shall be held on the Property, unless the Board determines for good reason that the meeting should be held at another location. Owner Meetings held at another location shall be convened at a place as close to the Property as possible. When permitted by law and authorized by the Board in its sole discretion, (i) an Owner Meeting may be held in whole or in part by electronic transmission and/or electronic video screen communication, and (ii) Owners may participate and vote in an Owner Meeting held at a physical

location by electronic transmission and/or electronic video screen communication.

- B. Notice of Owner Meetings.** The Board shall give written notice of Owner Meetings to each Owner at least twenty (20) but not more than ninety (90) days before the meeting. The notice shall state the place, date and time of the meeting, the means of electronic transmission or electronic video screen communication, if any, by which Owners may participate in that meeting, and (i) in the case of a Special Owner Meeting, the general nature of the business to be transacted, and no other business may be transacted, or (ii) in the case of the Annual Owner Meeting, those matters which the Board, at the time the notice is given, intends to present for action by the Owners. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to the Owners. Notice of an Owner Meeting shall be given in the manner described in Section 4.3. Unless otherwise explicitly stated in the meeting notice, the voting period for any particular matter to be decided at the meeting shall begin when discussion of such matter closes and end ten (10) minutes thereafter.
- C. Campaign Information.** If any candidate or Owner advocating a point of view is provided access to Association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and Owners advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or Owner, and not the Association, is responsible for that content. The Association shall provide access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election.
- D. Quorum Requirements of Owner Meetings.** A quorum shall be required to take any action at an Owner Meeting except for the election of Directors, which may occur, subject to all requirements imposed by law, even if no quorum is present. The presence of Owners entitled to cast votes of more than one third (1/3rd) of the Units shall constitute a quorum. If a quorum is required by the Governing Documents, each ballot received by the inspector(s) of elections (as described in Subsection G(3)) shall be treated as an Owner present at a meeting for purposes of establishing a quorum.
- E. Procedure If No Quorum.** If a quorum is not present in person or by proxy at any Owner Meeting, a majority of the voting power present may adjourn the meeting to a date not less than five (5) or more than thirty (30) days later without notice other than an announcement at the meeting, but may transact no other business requiring a quorum. If a time and place is not so fixed, notice of time and place of the adjourned meeting shall be given in the manner prescribed for Annual Owner Meetings. If a quorum is present at any Owner Meeting in person or by proxy, the Owners may continue to conduct business

until adjournment notwithstanding the withdrawal of enough Owners to leave less than a quorum provided (i) Owners entitled to cast votes of more than twenty five percent (25%) of the Units Owners remain present in person or by proxy, (ii) any action taken must be approved by at least a majority of the voting power required to constitute a quorum, and (iii) action may not include imposition of a Regular Annual Assessment which is more than twenty percent (20%) greater than the Regular Annual Assessment for the immediately preceding fiscal year, or a Special Assessment which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. Owners who submit written ballots but are not otherwise present in person or by proxy shall not be deemed present for the purpose of determining whether quorum requirements are satisfied.

- F. Conduct of Owner Meetings.** Owner Meetings shall be conducted in accordance with a recognized system of parliamentary procedure or such other parliamentary procedures as the Association may adopt. Owners shall be permitted a reasonable time to speak at all Owner Meetings. Except when the Governing Documents require the approval or consent of a specific number of Units, a majority of the total voting power represented (including those who submitted written ballots, when authorized) shall prevail at all Owner Meetings, and decisions made by that majority shall be deemed decisions of the Owners. In the event of a deadlock on a matter, the matter shall fail.
- G. Additional Requirements For Certain Votes.** The following additional requirements shall apply to any Owner vote regarding Regular or Special Assessments, election of directors, amendments to the Governing Documents, or the grant of exclusive usage of any portion of Common Area to any Owner or group of Owners (except as otherwise provided by law).
- (1) All voting shall be by secret ballot.
 - (2) The Board shall appoint either one (1) or three (3) independent election inspector(s) who meets all requirements imposed by law who shall perform all of the election inspection requirements imposed by law. An election inspector may be any person or business entity (including an Owner) who is not either (i) a Board member or candidate, (ii) the relative of a Board member or candidate, or (iii) employed by, or under contract to, the Association for any compensable services unless authorized by Board resolution.
 - (3) Ballots complying with applicable law and two (2) preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every Owner not less than thirty (30) days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or Unit number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following:

- (a) The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote.
- (b) The second envelope is addressed to the inspector(s) of elections, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector(s) of elections. The Owner may request a receipt for delivery.

All votes cast by written ballot shall be counted and tabulated by the inspector(s) of elections in public at a properly noticed open meeting of the Board or Owners. Any Owner may witness the counting and tabulation of the votes. No person shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The inspector(s) of elections, or his/her/their designee, may verify the Owner's information and signature on the outer envelope prior to the meeting at which ballots are tabulated. Once the secret ballot is received by the inspector(s) of elections, it shall be irrevocable.

- (4) The sealed ballots at all times shall be in the custody of the inspector(s) of elections or at a location designated by the inspector(s) until after the tabulation of the vote and until the time allowed by Section 7527 of the Corporate Code for challenging the election has expired, at which time custody shall be transferred to the association. If there is a recount or other challenge to the election process, the inspector(s) shall, upon written request, make the ballots available for inspection and review by an Owner or his authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.
- (5) The tabulated results of each election shall be promptly reported to the Board and shall be recorded in the minutes of the next Board meeting and shall be available for review by the Owners. Within fifteen (15) days of the election, the Board shall publicize the tabulated results of the election in a communication directed to all Owners.
- (6) After transfer of the ballots to the Association, election ballots shall be stored by the Association in a secure place for no less than one (1) year after the date of the election.

1.4 ACTION WITHOUT MEETING. Any action which may be taken at Owner Meetings, except the election of directors where cumulative voting is a requirement, may, in the Board's sole discretion, be taken without a meeting provided (i) a written ballot describing the proposed action, stating the number of responses needed to meet quorum requirements and the number of approvals required for passage, and providing an opportunity to specify approval or disapproval, is properly distributed to every Owner entitled to vote on the matter, (ii) Owners are provided a reasonable time to return the marked ballot to the Association, and (iii) the

requirements of Section 1.3G are satisfied when they apply to the matter being decided. Approval of an action by written ballot shall be valid only if the number of votes cast within the specified time frame equals or exceeds the number required for a quorum at a meeting, and the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting. Ballots shall be provided to Owners in the same manner as notice is given under this Second Restated Declaration. A vote cast by written ballot may not be revoked.

1.5 PROXIES.

A. Rules Applicable To All Proxies.

- (1) For the purpose of this Section, the following definitions shall apply:
 - (a) "Proxy" means a written authorization Signed by an Owner or the authorized representative of the Owner that gives another Owner or Owners the power to vote on behalf of that Owner.
 - (b) "Signed" means the placing of an Owner's name on the Proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the Owner or authorized representative of the Owner.
- (2) Each Owner may vote in person by ballot or by Proxy. Proxies shall not be construed or used in lieu of a ballot.
- (3) All Proxies shall be deemed to be authentic and valid if they are filed with the the inspector(s) of elections or, if there is/are none, by the Secretary, before the vote is cast, and any vote cast under such a Proxy shall be deemed effective.
- (4) Every Proxy shall be revocable prior to the receipt of the ballot as described in Section 7613 of the Corporate Code, and shall automatically cease upon (i) conveyance of the Owner's Condominium, (ii) receipt of notice by the the inspector(s) of elections or, if there is/are none, by the Secretary, of the death or judicially declared incompetence of the Owner, (iii) arrival of an expiration date stated in the Proxy provided it is no later than eleven (11) months from the date the proxy was created, or (iv) passage of eleven (11) months from date the Proxy was created.

- B. Special Rules For Proxies Distributed To Owners.** Any form of proxy or written ballot distributed by any person to Owners shall (i) identify the person or persons authorized to exercise it, (ii) provide that the vote shall be cast in accordance with the choice specified by the Owner, (iii) state the length of time it will be valid, and (iv) afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon. In addition, any proxy or written ballot distributed to Owners concerning election of directors which names candidates shall (i) provide that it shall not be mandatory that a named candidate be specified, and (ii) not be voted if it has

been marked in a manner indicating that the authority to vote for the election of directors is withheld. Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain.

BYLAWS ARTICLE 2. DIRECTORS

2.1 POWERS AND DUTIES OF DIRECTORS. The Association shall be managed by a Board of Directors. The Board shall have the power and duty to make decisions on behalf of the Association on all issues except those requiring Owner approval under the Second Restated Declaration. The Board may delegate its management duties to a manager.

2.2 NUMBER AND QUALIFICATION OF DIRECTORS. There shall be five (5) directors. Directors must be Owners, but need not meet other specific qualifications.

2.3 ELECTION OF DIRECTORS. Directors shall be elected at Annual Owner Meetings. Mid-term vacancies which have not been filled by the Board may be filled at any Owner Meeting. Regardless of whether a nominating committee has been formed, Owners may make nominations during the Owner Meeting and may nominate themselves. The Owner receiving the largest number of votes shall be elected. Whenever two (2) or more directors are elected, cumulative voting shall be used subject to the procedural requirements of Corporations Code §7615(b).

2.4 TERM OF DIRECTORS. Directors shall serve until the next Annual Owner Meeting.

2.5 REMOVAL/RESIGNATION OF DIRECTORS. Subject to the restrictions of Corporations Code §§7221 and 7222, directors may be removed (i) by Owner vote for any reason, (ii) by Board vote if the director no longer meets the qualifications in effect at the beginning of the director's current term, or (iii) by Board vote if the director fails to attend four (4) consecutive Regular Board Meetings and none of these absences have been excused by the Board. A director may resign at any time by giving written notice to the Board. In the event of removal, resignation, or death of a director, his/her successor shall be selected by a majority of the remaining directors, and shall serve the remainder of the terms of the director he/she replaces.

2.6 BOARD MEETINGS.

A. Timing and Location of Board Meetings. Regular Board Meetings shall be held at least quarterly. Special Board Meetings may be convened by (i) the President or (ii) by any two (2) directors other than the President. When permitted by law and authorized by the Board in its sole discretion, (i) a Board Meeting may be held in whole or in part by electronic transmission and/or electronic video screen communication, and (ii) Owners and directors may participate in, and directors may vote in, a Board Meeting held at a physical location by electronic transmission and/or electronic video screen communication.

B. Notice of Board Meetings. Except in the case of an Emergency, notice of all Board Meetings shall be given to all Owners at least four (4) days prior to the meeting. Unless otherwise provided by law, notice of Board Meetings shall include an agenda of all items to be acted upon at the Meeting, and directors may not discuss or take any action on any matters not listed in the notice. Notwithstanding the preceding sentence, however, the following discussions and actions are permitted:

- (1) An Owner who is not a director may speak on issues not on the agenda;
- (2) A director may (i) briefly respond to statements made or questions posed by a person speaking at a meeting, (ii) ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities, whether in response to questions or based upon his or her own initiative, (iii) provide a reference to, or provide other resources for factual information to, its managing agent or other agents or staff, (iv) request its managing agent or other agents or staff to report back to the Board at a subsequent meeting concerning any matter, or take action to direct its managing agent or other agents or staff to place a matter of business on a future agenda, and (v) direct its managing agent or other agents or staff to perform administrative tasks that are necessary to carry out this Subsection.
- (3) The Board may take action on an item of business not appearing on the agenda under any of the following conditions:
 - (a) Upon a determination made by a majority of directors present at the meeting that an emergency situation exists. For the purposes of this Subsection, an emergency situation exists if there are circumstances that could not have been reasonably foreseen by the Board, that require immediate attention and possible action by the Board, and that, of necessity, make it impracticable to provide notice.
 - (b) Upon a determination made by a vote of two-thirds of the directors present, or, if less than two-thirds of all directors are present, by a unanimous vote of directors present, that there is a need to take immediate action and that the need for action came to the attention of the Board after the agenda was posted and distributed.
 - (c) The item appeared on an agenda that was posted and distributed for a Board Meeting that occurred not more than thirty (30) calendar days before the date that action is taken on the item and, at the prior meeting, action on the item was continued to the meeting at which the action is taken.

Before discussing any item pursuant to this Subsection (3), the Board shall openly identify the item to the Owners in attendance at the Board Meeting.

Notice of a Board meeting may be given (i) through delivery to each Owner of a letter, newsletter or similar communication in the manner described in Section 4.3, or (ii) by posting a notice in a prominent place within the Common Area and delivering a copy of the notice to any Owner who had specifically requested such notification in writing to the address specified in the request. Emergency Board Meetings may be held without notice if a quorum is present and either before or after the meeting each absent director (i) signs a written waiver of notice, (ii) signs a consent to the holding of the meeting, or (iii) approves the minutes of the meeting. All waivers, consents, or approvals shall be filed with the records of the Board and made a part of the minutes.

- C. Quorum Requirements of Board Meetings.** A majority of the directors shall constitute a quorum.
- D. Conduct of Board Meetings.** Board Meetings, except those held in executive session, shall be open to all Owners. Each such meeting shall include an Owner's forum when Owners shall be permitted a reasonable time to speak. Unless expressly authorized by the Board, Owners other than directors may not participate in any Board discussion or deliberation before or after the Owner's forum. Decisions made by a majority of a quorum shall be binding.
- E. Executive Sessions.** The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon (i) personnel matters, (ii) litigation in which the Association is or may become involved, (iii) matters that relate to the formation of contracts with third parties, and (iv) any matter involving attorney-client privilege. In addition, the Board shall be required to convene an executive session to discuss and vote upon any matter relating to discipline of, or non-payment of assessments by, an Owner, and the Owner shall be given an opportunity to attend the session. The general nature of any business to be considered in executive session shall be announced in open session and noted in the minutes of the immediately following meeting that is open to all Owners. The details of business conducted in executive session shall be confidential and disclosed only to directors and persons authorized by the Board to have access to such information.

2.7 ACTION TAKEN WITHOUT BOARD MEETINGS. The Board may act without a meeting provided (i) all directors consent in writing to the action and (ii) an explanation of the action is posted in a prominent place in the Common Area within three (3) days.

2.8 COMPENSATION OF DIRECTORS. Directors shall not be compensated but may be reimbursed for expenses incurred in connection with Association business.

2.9 COMMITTEES. The Board may appoint committees as appropriate to carry out its duties.

BYLAWS ARTICLE 3. OFFICERS

3.1 TITLES AND DUTIES OF OFFICERS. Officers have the following titles and duties:

- A. President.** The President shall preside at all Board Meetings, supervise the execution of Board orders and resolutions, sign legal instruments as necessary and act as the chief executive officer of the Association.
- B. Vice President.** The Vice President shall act in place of the President in his/her absence due to his/her inability to act, and shall exercise and discharge such other duties as the Board may from time to time require.
- C. Secretary.** The Secretary shall record the votes and keep the minutes of all Board and Owner Meetings, keep a current list of the names and addresses of Owners, and perform other duties as the Board may from time to time require.
- D. Treasurer.** The Treasurer shall maintain proper books of account and other appropriate financial records in accordance with standard accounting practices, and be responsible for ensuring compliance with the preparation and review of the financial documentation required by Civil Code §§1365 and 1365.5.

3.2 ELECTION OF OFFICERS. Officers shall be elected at the first Board Meeting following the Annual Owner Meeting. Mid-term vacancies shall be filled by the Board at its earliest convenience.

3.3 TERM OF OFFICERS. Unless they resign or are removed, officers shall serve until the first Board Meeting following the next Annual Owner Meeting.

3.4 REMOVAL/RESIGNATION OF OFFICERS. An officer may be removed from office by the Board at any time without cause. An officer may resign at any time by giving written notice to the Board. An officer shall also be deemed to have resigned when he/she ceases to be a director. In the event of removal, death or resignation of an officer, his/her successor shall be selected by a majority of the remaining directors.

3.5 COMPENSATION OF OFFICERS. Officers shall not be compensated but may be reimbursed for expenses incurred in connection with Association business.

BYLAWS ARTICLE 4. GENERAL PROVISIONS OF BYLAWS

4.1 PREPARATION, DISTRIBUTION AND INSPECTION OF MINUTES. A proposed draft of the minutes, final draft of the minutes, or summary of the minutes of all Board (other than executive session) and Owner Meetings shall be prepared and made available to Owners within thirty (30) days of the meeting. The proposed minutes, final minutes, or summary minutes shall be distributed to any Owner upon request and reimbursement of the reasonable cost of the distribution. At the time of distribution of the *pro forma* operating budget, or at the

time of any general transmittal to all Owners, the Association shall notify all Owners (i) that they may inspect and copy the minutes, and (ii) how and where such an inspection can occur.

4.2 INSPECTION OF RECORDS. To the full extent and in the manner required by law, the Association shall make its records available for inspection and copying by any Owner or Owner's designee, and by any director.

4.3 MANNER OF PROVIDING NOTICES, DOCUMENTS AND REPORTS. A notice, document or report permitted or required by the Bylaws shall be in writing and deemed received by the person to whom it is given upon either (i) personal delivery, (ii) expiration of forty-eight (48) hours after deposit in the United States mail (first-class, registered or certified), postage prepaid and addressed to the current or, if unavailable, to the last known address of the person to be notified, or (iii) when permitted by law, by electronic transmittal. Notice to the Association shall be given to its President. When Co-Owners own a Unit, a transmittal to any of them shall be deemed a transmittal to all of them.

4.4 AMENDMENT OF BYLAWS. These First Restated Bylaws may be amended with the approval of a majority of Units. In addition, the Board, without Owner vote, may amend these First Restated Bylaws in any manner required to bring it into conformity with applicable law.

4.5 FISCAL YEAR. The fiscal year of the Association shall be the calendar year, unless a different fiscal year is adopted by the Association.

4.6 CALIFORNIA CORPORATIONS CODE. These First Restated Bylaws conform to the provisions of the Corporations Code governing Nonprofit Mutual Benefit Corporations. If a statute upon which these First Restated Bylaws are based is amended, the amendment shall supersede any conflicting provision herein.

4.7 CERTIFICATE OF SECRETARY. I certify that I am the duly elected Secretary of Gold Bend Condominium Association, a California nonprofit mutual benefit corporation, and that these First Restated Bylaws were adopted by the Owners on 4/25/2012.

OAKLAND
Executed at ~~Truckee~~, California, on 4/25/2012.

Andrew S. Sleason
Secretary of
GOLD BEND CONDOMINIUM ASSOCIATION

EXHIBIT A: SCHEDULE OF VOTING POWERS AND ASSESSMENT ALLOCATION:

Voting & Assessment		Voting & Assessment		Voting & Assessment	
Unit Number	Factor	Unit Number	Factor	Unit Number	Factor
1	1.38	43	0.99	85	0.99
2	1.18	44	0.69	86	0.99
3	0.69	45	0.99	87	0.69
4	1.18	46	0.99	88	1.18
5	0.69	47	0.69	89	0.69
6	0.99	48	0.99	90	1.18
7	0.99	49	1.38	91	1.38
8	0.69	50	1.18	92	0.99
9	0.99	51	0.69	93	0.69
10	0.99	52	1.18	94	1.18
11	0.69	53	0.69	95	0.69
12	1.18	54	0.99	96	1.18
13	0.99	55	1.38	97	1.38
14	1.38	56	1.18	98	0.99
15	1.18	57	0.69	99	0.69
16	0.69	58	1.18	100	1.18
17	1.18	59	0.69	101	0.69
18	0.69	60	0.99	102	1.18
19	0.99	61	0.99	103	1.38
20	0.99	62	1.18	104	0.99
21	0.69	63	0.69	105	0.69
22	1.18	64	0.99	106	1.18
23	0.99	65	0.99	107	0.99
24	0.99	66	1.18	108	0.99
25	0.69	67	0.69	109	1.18
26	0.99	68	1.18	110	0.69
27	0.99	69	1.18	111	1.18
28	0.69	70	0.99	112	1.18
29	1.18	71	1.18	113	1.18
30	0.69	72	0.69	114	1.18
31	1.18	73	1.18	115	0.69
32	1.38	74	1.18	116	1.18
33	0.99	75	0.99	117	0.99
34	0.69	76	1.18	118	0.99
35	1.18	77	0.69	119	1.18
36	0.99	78	1.18	120	0.69
37	0.99	79	1.18	121	0.99
38	0.69	80	1.38	122	1.38
39	1.18	81	1.18	123	1.18
40	0.69	82	0.69	124	0.69
41	1.18	83	1.18	125	1.18
42	1.38	84	0.69	126	0.69
				127	0.99

All assessments will be allocated to each Condominium by taking the total cash assessment for all Condominiums, divided by the total number of Condominiums (127), multiplied by the factor listed for each Condominium.