

**OCCUPANCY AGREEMENT**

Mortgage Area No.

File No. 12-\_\_\_

**THIS OCCUPANCY AGREEMENT** (“Agreement”) is made and entered into as of \_\_\_\_\_, 20\_\_\_, by and between Seal Beach Mutual No. Twelve (“Corporation”), a stock cooperative as defined in California Civil Code Section 4190 having its principal office and place of business in Orange County, California, and \_\_\_\_\_

([collectively], “Member”), with reference to the following:

RECITALS

**WHEREAS**, the Corporation has been formed for the purpose of acquiring, owning and operating a cooperative housing development (“Development”) to be located at Seal Beach Leisure World, in Seal Beach, California, with the intent that its stockholders (hereinafter called “members”), shall have the right to occupy the dwelling units thereof and to have the exclusive use of an assigned carport under the terms and conditions set forth hereinafter and the Corporation’s governing documents and subject to the limitations imposed by Civil Code § 51.3; and

**WHEREAS**, the Member is the owner and holder of one share of common capital stock, Series \_\_\_ of the Corporation and has a bona fide intention to reside in the Corporation’s Development;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, Corporation and Member hereby agree as follows:

**ARTICLE 1. RIGHT TO OCCUPY.**

Corporation hereby lets to the Member, and the Member hires and takes from the Corporation, dwelling unit number \_\_\_\_\_, Lot \_\_\_\_\_, Tract \_\_\_\_\_ located at Seal Beach Mutual No. Twelve in Seal Beach Leisure World, Seal Beach, California (“Dwelling Unit”) and Carport No. \_\_\_\_\_ on the terms and conditions set forth herein and in the Declaration and Instrument of Adoption, Articles of Incorporation and Bylaws of the Corporation, and any rules and regulations of the Corporation now or hereafter adopted pursuant thereto, from the date of this Agreement for a term terminating on \_\_\_\_\_, unless terminated earlier as herein provided, and renewable thereafter for successive three-year periods under the conditions provided for herein. The Dwelling Unit and related appurtenances such as the carport, carport cabinets, patio storage cabinets, etc., may be collectively referred to herein as the “Premises.”

**ARTICLE 2. ASSESSMENTS.**

2.1 Regular Assessments. Commencing at the time indicated in Section 2.2, the Member agrees to pay to the Corporation a monthly sum referred to herein as “Regular Assessments” (also known as “carrying charges”) equal to the Member’s proportionate share of

the sum required by the Corporation, as estimated by the Corporation's board of directors ("Board") to meet its annual expenses, including but not limited to the following items:

(a) The cost of all operating expenses of the Development and services furnished, including charges by the Golden Rain Foundation (the "Foundation") for facilities and services furnished by the Foundation, in addition to any and all other charges required pursuant to that agreement between Foundation and the Corporation provided for herein.

(b) The cost of necessary management, administration and professional services.

(c) The amount of all taxes and assessments levied against the Development of the Corporation of which it is required to pay, except that in the event the taxing authority makes a separate assessment as to the assessed value of each dwelling unit, the proportionate share of taxes to be paid as to said dwelling unit shall be determined by the ratio of the assessed value of the Dwelling Unit to the total assessed value of all dwelling units of the Corporation, the Member agrees to and shall pay the amount of said taxes determined by the taxing authority for the said Member's Dwelling Unit, which shall be included in the "Regular Assessments" hereinabove referred to, in said amount as separately determined for said Dwelling Unit.

(d) The cost of fire and extended insurance on the Development and such other insurance as the Corporation may effect.

(e) The cost of furnishing water, electricity, garbage and trash collection, other government mandated responsibilities, and other utilities to the extent furnished by the Corporation.

(f) All reserves set up by the Board, including but not limited to the general operating reserve, contingency reserve and the reserve for repair or replacement of Corporation property.

(g) The estimated cost of repairs, maintenance and replacement of Corporation property.

(h) Any other expenses of the Corporation approved by the Board of Directors, including operating deficiencies, if any, for prior periods.

## 2.2 Commencement of Regular Assessments Determination of Cash Flow Requirements.

(a) After thirty (30) days' written notice by the Corporation to the effect that the Dwelling Unit is available for occupancy, or upon acceptance of occupancy, whichever is earlier, the Member shall make a prorated payment for Regular Assessments covering the unexpired balance of the month. Thereafter, the Member shall pay Regular Assessments in full each month in advance on the 1<sup>st</sup> day of each month without notice. Until further notice from the Corporation, the Assessments for the above mentioned Dwelling Unit shall be \$\_\_\_\_\_.

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(b) The Board shall determine the Corporation's annual cash requirements for next fiscal year at least thirty (30) days prior to the end of its current fiscal year. However, the failure of the Board of Directors to determine the Corporation's cash requirements for any year shall not be deemed a waiver or modification of the covenants and provisions hereof, or a release of Member from the obligation to pay Regular Assessments, rather Regular Assessments computed for the previous year shall continue until a new determination of cash requirements has been made, and written notification of that amount provided to Member.

(c) That amount of the Regular Assessments required for payment of any other capital expenditure shall be credited upon the books of the Corporation to the "Paid in Surplus" account as a capital contribution by the Member.

2.3 Special Assessments. The Board may at any time levy a special assessment against all of the members and their stocks in order to raise funds for unexpected operation or other costs, insufficient operating or reserve funds, the cost of any construction, reconstruction, or unexpected repair or replacement of a capital improvement or existing component upon the common area and personal property related thereto or other purposes as the Board in its discretion considers appropriate ("Special Assessment"). Special Assessments levied against the Corporation membership shall be allocated to all members on the same basis as the monthly Regular Assessments and shall be subject to the limitations set forth in Civil Code Section 5605 et seq. The Board shall also have the authority to levy Emergency Special Assessment against all of the members as provided in Civil Code Section 5610.

#### 2.4 Property Tax Assessments.

(a) Each Member shall be obligated to pay the Member's pro rata share of taxes, fees and assessments levied against the Corporation's property by the Orange County Tax Assessor's office ("Property Tax Assessment") related to the Dwelling Unit.

(b) The amount of Member's Property Tax Assessment shall be calculated by the ratio of the taxing authority's assessed value of the Dwelling Unit to the total assessed value of all dwelling units in the Corporation's property along with any Orange County User Fees and other charges determined by the taxing authority relating to the Dwelling Unit. The Member's Property Tax Assessment shall also include, as applicable, any supplemental property tax bills related to the Dwelling Unit.

(c) The Member's Property Tax Assessment shall be included in the monthly statement for Regular Assessments as a separate line item.

(d) Individual property tax adjustments will be billed or reimbursed separately to Member.

2.5 Individual Special Assessments. The Board may also levy Individual Special Assessments against Member and his/her/their stock that relates only to Member for the following purposes, among others:

(a) Any and all nonstandard charges ("Service Maintenance Charges") assessed by the Corporation including, but not limited to, costs incurred in the event the Foundation Purchasing or Service maintenance department provides materials and/or labor

directly to the Member for which the Member is responsible, orders for materials and/or labor that are Member responsibility not paid for by Member at the time of service (See Article 11.1 REPAIRS).

(b) Charges/fees for Foundation and Corporation document preparation services and activities as authorized by the Foundation and the Corporation's Policies, Rules and Regulations.

(c) In the event the proceeds of insurance obtained by the Corporation are paid to any mortgagee of the Dwelling Unit and by reason of such payment, said insurance proceeds are not made available to the Corporation as trustee or otherwise to effect any repair, reconstruction or restoration of any damage and/or destruction to all or any portion of the Development as provided herein.

(d) All other fees and charges not listed in the annual assessment/carrying charge information whether included in the monthly billing statement or billed separately.

(e) For such other purposes as may be set forth in the Bylaws, this Occupancy Agreement or other Governing Documents.

(f) After notice and hearing, the costs incurred to bring Member into compliance with the Governing Documents including, without limitation:

(1) For costs incurred in the event the Member fail to maintain the Premises and make repairs thereto as required by the governing documents and the Board causes such maintenance and/or repair to be performed in accordance with the provisions hereof.

(2) In the amount of the increase in the event any act or omission of Member, or any person living in and/or visiting the Member's Dwelling Unit including, but not limited to, any qualified permanent resident, permitted healthcare resident, family member, guests, contractors, licensees, agents or invitees, shall increase the premiums for any insurance policy purchased or obtained by the Corporation for the benefit of the Development and the residents thereof.

(3) In the amount of any monetary penalty imposed against Member (after notice and hearing) if not paid when due.

(4) Any and all fees resulting from eviction procedures duly initiated by the Board.

## 2.6 Delinquent Assessments.

(a) In addition to other sums that have become or will become due pursuant to the terms of this Occupancy Agreement, Member shall pay to the Corporation all of the following with respect to any Regular Assessment, Special Assessment, Property Tax Assessments and Individual Special Assessment (collectively, "Assessments") due from Member that are more than fifteen (15) days in arrears:

(1) Reasonable costs incurred in collecting the delinquent amount, including reasonable attorneys' fees;

(2) A late charge not to exceed ten percent (10%) of the delinquent amount or \$10.00, whichever is greater; and

(3) Interest on any delinquent amount, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed twelve percent (12%) interest, commencing thirty (30) days after the Assessments become due.

(b) The delinquent amount plus the amount set forth in (a) shall constitute a lien on Member's stock in the Corporation and shall be a personal obligation of Member. Said lien shall be deemed to include subsequent delinquent Assessments and amounts due on account thereof.

### **ARTICLE 3. PATRONAGE REFUNDS**

The Corporation may refund or credit to the Member within ninety (90) days after the end of each fiscal year, the Member's proportionate share of such sums as have been collected in anticipation of expenses which are in excess of the amount needed for expenses of all kinds, including reserves, in the sole discretion of the Board.

### **ARTICLE 4. MEMBER'S OPTION TO RENEW; RESTRICTION ON TRANSFERS**

4.1 It is covenanted and agreed that the term herein granted shall be extended and renewed from time to time by and between the parties hereto for further periods of three (3) years each from the expiration of the term herein granted, upon the same covenants and agreements as herein contained unless:

(a) The Agreement is terminated by the Corporation pursuant to Article 14;

(b) Member's election not to renew shall have been given to the Corporation in writing no less than thirty (30) days in advance of the termination of Member's occupancy using the procedures published in the Corporation's Policies, Rules and Regulations, and the Member shall have on or before the expiration of said term (1) endorsed Member's membership for transfer in blank and deposited same with the Corporation, and (2) met all of Member's obligations and paid all amounts due under this Agreement up to the time of said expiration, and (3) vacated the Premises, leaving same in a good state of repair. Upon compliance with all provisions of this subsection (b), the Member shall have no further liability under this Agreement and shall be entitled to no payment from the Corporation.

4.2 Notwithstanding anything to the contrary, no Member may transfer his or her stock and right to occupy the Premises during the initial three years of stock ownership except in the case of the death of the Member or in the event of financial hardship exemption issued by the Board in writing,

**ARTICLE 5. PREMISES TO BE USED FOR RESIDENTIAL PURPOSES ONLY**

The Member shall occupy the Dwelling Unit as a private residential dwelling for the Member, or for qualified members of Member's immediate family, or other Board-approved qualified residents not to exceed two (2) persons in a one-bedroom dwelling unit, or three (3) persons in a two-bedroom dwelling unit and for no other purpose. Member may enjoy the use, in common, with the other members of the Corporation, of all community property and facilities of the Development, so long as Member continues to own the aforesaid common stock of the Corporation, occupies the Dwelling Unit, and abides by the terms of this Agreement.

Member shall not own more than one (1) share of stock in the Corporation, or any other Mutual Corporation located in Leisure World concurrently. Member is expressly obligated to fully divest ownership in the Corporation prior to acquiring, owning or occupying a dwelling unit other than as set forth above.

Member shall not permit or suffer anything to be done or kept upon said premises which will increase the rate of insurance on the building, or on the contents thereof, or which will obstruct or interfere with the rights of other occupants, or annoy them by unreasonable noises, smells or otherwise, nor will Member commit or permit any nuisance on the premises or commit or suffer any illegal act to be committed thereon. Member shall comply with all of the requirements of the Board of Health and of all other governmental authorities and law with respect to the Premises. If by reason of the occupancy or use of the Premises by the Member the rate of insurance on the building shall be increased, the Member shall become personally liable for the additional insurance premiums, which amounts may be assessed to Member as an Individual Special Assessment.

**ARTICLE 6. MEMBER'S RIGHT TO PEACEABLE POSSESSION**

In return for the continued fulfillment by Member of the terms and conditions of this Agreement, the Corporation covenants that the Member may at all times while this Agreement remains in effect, have and enjoy for Member's sole use and benefit the property hereinabove described, after obtaining occupancy, and may enjoy in common with all other members of the Corporation the use of all community property and facilities of the Development.

**ARTICLE 7. NO SUBLETTING WITHOUT CONSENT OF CORPORATION**

Member hereby agrees not to assign this Agreement or sublet Member's Dwelling Unit. Member's carport may be sublet to another resident in accordance with the Rules and Regulations.

**ARTICLE 8. TRANSFERS; ASSIGNMENTS**

Neither this Agreement nor the Member's right of occupancy shall be transferable or assignable except in the same manner as may now or hereafter be provided for the transfer of memberships in the Bylaws of the Corporation. Member may only assign this Occupancy Agreement, or transfer the shares to which it is appurtenant, in accordance with the provisions set forth in the Bylaws. In the event that a Member shall leave, bequeath or devise by will, trust or other manner Member's stock, then such Member's heirs may not occupy the appurtenant

Dwelling Unit unless and until such heirs have: (a) provided the Board with sufficient proof of such heir's right to inherit the Member's interest in the Dwelling Unit; (b) have been approved by the Board; and, (c) have signed an Occupancy Agreement.

## **ARTICLE 9. MANAGEMENT TAXES AND INSURANCE**

The Corporation shall provide necessary management, operation and administration of the Development; pay or provide for the payment of all taxes or assessments levied against the Development; procure and pay or provide for the payment of fire insurance and extended coverage, and other insurance procured by the Corporation as required by any mortgage on the property in the Development, and such other insurance as the Corporation may deem advisable on the property in the Development. The Corporation will not, however, provide insurance on the Member's separate interest in the Dwelling Unit or on Member's personal property.

Member is fully and solely responsible for purchasing his/her own premises liability insurance, real and personal property insurance which insures the personal property, furniture, furnishings, and decorations within the Premises and or damage to any items in or about in the Premises added by the Corporation (including loss to the Corporation resulting from Member misuses, negligence or any other reason), for alterations made to the Premises by Member during the term hereof, and for alterations made to the Premises by previous occupants thereof. The Corporation strongly suggests that the Member purchase an HO-6 insurance policy which covers, among other things, loss of use (i.e., additional living expenses if Member has to relocate to accommodate repairs) and loss assessments. Member is also encouraged to purchase earthquake insurance. Unless the Board determines otherwise, the Corporation shall not pay deductibles required under any insurance claims from the Corporation's funds if the damage is the result of the negligence or willful misconduct of the Member, or persons living in the Dwelling Unit or visiting Member, or the failure of any component for which the Member is responsible to maintain and repair, in which case the Member shall be responsible to pay such deductible, and, if necessary, the Association shall levy an Individual Special Assessment against the Member in such amount in accordance with this Occupancy Agreement.

## **ARTICLE 10. UTILITIES**

The Corporation shall provide water for both exterior and interior use, gas, common area electricity, and other government mandated services for exterior use, and rubbish and trash disposal. The cost of these services shall be included in the Regular Assessments set forth in Article 2 hereof. Member shall be responsible for electricity used within the Dwelling Unit and any other service provided to the Dwelling Unit.

## **ARTICLE 11. REPAIRS**

11.1 By Member. The Member agrees to repair and maintain the Premises at Member's own expense as follows:

(a) Any repairs or maintenance to non-standard items located in or about Member's Dwelling Unit or other portions of the Premises appurtenant thereto whether installed by Member or previous occupants of the Dwelling Unit;

- (b) Any repairs or maintenance necessitated by Member's own negligence or misuse;
- (c) Minor standard repairs including but not limited to light bulbs, filters and similar items;
- (d) Any redecoration or modification of the Premises;
- (e) Any purchase, installation, repairs, maintenance, Board-approved alterations or modifications of improvements or original fixtures and component parts thereof that were added to the Premises by Member or previous occupants of the Dwelling Unit (whether within the interior of the Unit or exterior to the Dwelling Unit) including added items within the interior surfaces of the perimeter walls, floors and ceiling of the Dwelling Unit; and
- (f) Any repairs, maintenance, removal or replacements of nonstandard or relocated construction or fixtures in easements for ingress, egress and support (see Civil Code Section 4505) including, but not limited to, HVAC units, cart pads and walkways.

11.2 By Corporation; Condition of Premises. The Corporation shall provide and pay for all necessary repairs, maintenance and replacements, except as specified in Section 11.1. The officers, agents, and contractors of the Corporation shall have the right to enter the Dwelling Unit of the Member in order to effect necessary repairs, maintenance, and replacements, and to authorize entrance for such purposes by employees of any contractor, utility company, municipal agency, or others, at any reasonable hour of the day and in the event of emergency at any time. Member acknowledges that he or she has examined the Premises and all equipment, appurtenances and personal property subject to this Occupancy Agreement, and has accepted them in good, safe, and clean condition and repair. Member agrees to notify the Corporation immediately of any defects, dilapidations, or dangerous conditions concerning or affecting components which are the Corporation's responsibility to repair. Upon vacating the Premises, Member shall ensure that the Premises are left in the same condition as received, normal wear and tear excepted.

11.3 Right of Corporation to Make Repairs at Member's Expense. In case the Member shall fail to effect the repairs, maintenance or replacements specified in Section 11.1 of this Article in a manner satisfactory to the Corporation and pay for same, the latter may do so and, assess such expenses to Member as stated in Section 2.5 of this Agreement.

11.4 Relocation. Member acknowledges that he or she is responsible for the cost of any temporary relocation of Member or any other occupants of Member's Dwelling Unit occasioned by repairs to the components which are the Corporation's responsibility to maintain and repair or by any structural pest control work performed by or at the request of the Corporation for the purpose of keeping the Development free of infestation by wood-destroying pests or organisms. (See Civil Code Section 4775(b)).

**ARTICLE 12. ALTERATIONS AND ADDITIONS**

12.1 Prior Written Approval Needed for Structural Alterations. Member shall not, without the prior written approval of the Corporation, make any structural alterations to the Premises or in the water, gas or other service/utility pipes, electrical conduits, plumbing or other



fixtures connected therewith, or remove any additions, improvements, or fixtures from the Premises.

12.2 Prior Written Approval Needed for Certain Appliances and Equipment. The Member shall not, without the prior written approval of the Corporation, install or use in or about Member's Dwelling Unit any air conditioning equipment, washing machine, dishwasher, built-in microwave, hot tub/spa, clothes dryer, electric heater, power tools, or other item which, when installed, would be considered a fixture under California law.

12.3 Prior Written Approval Needed for Alteration of Common Area. The Member shall not, without the prior written approval of the Corporation, make any alterations or additions to the Corporation's common area, except that Member may install and maintain a garden as may be permitted in the Policy and/or the Rules and Regulation, and, with a permit from the Foundation, Member may install modifications of the route to the Dwelling Unit to facilitate access pursuant to Civil Code Section 4760.

12.4 Default. The Member agrees that the Corporation may require the prompt removal of any alteration or equipment at any time (and restoration to its previous condition), and that Member's failure to remove such alteration and/or equipment and restore the affected portion of the Premises or common area upon request shall constitute a default within the meaning of Article 14 of this Agreement.

12.5 Surrender. If the Member for any reason shall cease to be an occupant of the Dwelling Unit, Member shall surrender to the Corporation possession thereof along with the other portions of the Premises, including any alterations, additions, fixtures and improvements.

### **ARTICLE 13. MEMBERSHIP IN THE FOUNDATION, FACILITIES AND SERVICES FURNISHED**

Prior to occupancy of the Dwelling Unit, the Member shall become a resident member of the Foundation and shall pay an amenities fee and such fees, dues and assessments as are from time to time fixed and determined by its board of directors. A copy of the current Schedule of Fees has been furnished to Member in escrow. Such fees, dues and assessments shall be in addition to the Assessments specified in Article 2 hereof. The Foundation holds in trust, operates and maintains the community facilities, streets, and certain other off-site improvements and amenities within Leisure World for the benefit of the members of the Corporation and other corporations owning and operating cooperative housing developments and condominiums located at Leisure World, (hereinafter called "Mutuals"), and in connection therewith, provide certain services, including but not limited to administrative and recreational.

The extent and nature of the facilities and services provided by the Foundation, the charges therefor and the persons to whom the same should be made available shall be as determined from time to time pursuant to agreement between the Corporation, the Foundation and other Mutuals.

**ARTICLE 14. BREACH; DISCIPLINE; TERMINATION OF OCCUPANCY AGREEMENT**

14.1 Material Breach. Member shall commit a material breach of this Occupancy Agreement, and shall be subject to termination of his/her/their membership in the Corporation in accordance with the Bylaws upon the occurrence of any of the following events:

(a) Member is in default for fifteen (15) days in the payment of Carrying Charges and/or special assessments, as provided in Article 2 of this Occupancy Agreement or any other sum owing to the Corporation pursuant to the terms of the Governing Documents;

(b) Member ceases to be the owner of the shares of stock to which this Occupancy Agreement is appurtenant;

(c) Any of the shares of stock to which this Occupancy Agreement is appurtenant are levied upon and sold under the process of any court;

(d) Member is adjudged a bankrupt or makes a general assignment for the benefit of creditors;

(e) Member attempts to transfer or assign this Agreement in a manner contrary to the provisions contained herein or as provided for in the Bylaws;

(f) Member fails to effect and/or pay for repairs and maintenance as provided for in this Agreement;

(g) Member, or anyone occupying or visiting the Dwelling Unit, fails to abide by the terms of, or defaults in the performance of any obligations of Member under, the Occupancy Agreement and/or the Governing Documents;

(h) Member allows any person not authorized by the Bylaws or the Occupancy Agreement to use or occupy the Dwelling Unit, and fails to cause that person to vacate the premises within fifteen (15) days after written notice from the Corporation; or if any authorized person(s) are occupying an Dwelling Unit without a Member also occupying the Dwelling Unit;

(i) Member fails to obtain a revised stock certificate, qualified permanent resident approval and/or Foundation membership or permitted healthcare resident approval prior to any new person occupying the Dwelling Unit; or,

(j) Member, or anyone occupying or visiting the Dwelling Unit, engages in any illegal activity within the Premises or anywhere else on the Corporation's property.

14.2 Notice of Termination or Disciplinary Action.

(a) Corporation may suspend Member's voting rights (except for matters required by Civil Code Section 5100 et seq. to be voted upon by secret ballot) or privileges for use of the common area, levy an Individual Special Assessment against Member and/or impose

monetary penalties against Member with notice and a hearing. The Corporation (after notice and a hearing) shall be authorized to both levy an Individual Special Assessment for damages against Member and impose a monetary penalty related to the same event, and nothing contained herein shall require that such Individual Special Assessment and/or penalty be levied at the same time.

(b) If the Corporation intends to terminate the rights of Member(s) to occupy the Premises and be a stockholder in the Corporation:

(1) The Corporation shall send written notice, postage prepaid, by first-class or registered mail addressed to the last address of the Member shown on the Corporation's records, stating that membership in the Corporation and all rights appurtenant to membership will expire on a date not less than thirty (30) days after the date of mailing the notice, and the reasons for termination; and

(2) The notice shall provide the Member with an opportunity to show cause to the Board, orally or in writing, why the termination should not take place at a hearing. Written notice of the hearing shall be sent not less than ten (10) days before the date of the hearing, and the hearing shall be held not less than five (5) days before the effective date of termination.

14.3 Surrender of Stock Upon Termination. On or before the effective termination date of Member's rights under this Occupancy Agreement pursuant to Section 14.1 of this Occupancy Agreement, Member shall surrender to the Corporation his or her stock certificate and Occupancy Agreement, endorsed in any manner that may be required by the Corporation. Whether or not the instruments are surrendered, the Corporation may thereupon at its election cancel the stock and treat the cancellation as a purchase of the retiring Member's interest in the Corporation or sell the interest to a new purchaser, and pay the purchase amount less authorized deductions to the former Member in accordance with the Bylaws.

14.4 The Corporation's Remedies for Breach of Occupancy Agreement. Member agrees that a landlord-tenant relationship exists between the parties to this Occupancy Agreement, and that in the event of a breach or threatened breach by Member, as provided in Section 14.1 of this Occupancy Agreement, the Corporation shall have the right to pursue any remedies generally available to a landlord for the breach or threatened breach of a rental agreement by a tenant, including the right to:

(a) Commence, in lieu of or in addition to the action provided for in (c), an action against Member to recover all amounts specified in Section 1951.2 of the Civil Code.

(b) Commence, in lieu of or in addition to the action described in (a), an action to reenter and regain possession of the premises in the manner provided by the laws of California governing unlawful detainer.

(c) In addition to any other rights and remedies, after notice and hearing, Member shall be subject to disciplinary action by the Board, including suspension of voting rights (except for matters required by Civil Code Section 5100 et seq. to be voted upon by secret ballot) or privileges for use of the common area, or the imposition of monetary penalties in accordance with the provisions of the Bylaws, if Member(s), or anyone occupying or visiting the

Dwelling Unit, defaults on the performance of any covenant herein or under the Governing Documents, other than the covenant to pay Assessments. Any monetary penalty imposed pursuant to this Section shall be an Individual Special Assessment against such Member(s) and the Dwelling Unit.

(d) Notwithstanding any other provisions of this Agreement the Member, in case Member is in default hereunder, hereby expressly waives any and all notices and demands for possession as provided by the laws of the State of California.

14.5 No Right of Redemption. The Member hereby expressly waives any and all right of redemption in case Member shall be dispossessed by judgment or warrant of any Court or judge. The words “enter”, “re-enter”, and “re-entry”, as used in this Agreement, are not restricted to their technical legal meaning, and in the event of a breach or threatened breach by the Member of any of the covenants or provisions hereof, the Corporation shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, as if re-entry, summary proceedings, and other remedies were not herein provided for.

14.6 No Waiver. The failure on the part of the Corporation to avail itself of any of the remedies given under this Agreement shall not waive nor destroy the right of the Corporation to avail itself of such remedies for similar or other breaches on the part of the Member.

14.7 Monetary Penalties. The Corporation and the Foundation shall each have the authority to impose monetary penalties against Member in connection with violations of their respective governing documents. Monetary penalties imposed by the Corporation shall be levied in accordance with the Corporation’s policies, rules and regulations. Monetary penalties imposed by the Foundation shall be levied in accordance with the Foundation’s policies and procedures.

14.8 Suspension of Privileges. After notice and a hearing, the Corporation shall have the right to suspend a Member’s voting rights (except for matters required by Civil Code Section 5100 et seq. to be voted upon by secret ballot) and/or common area privileges as provided for in the Corporation’s Policies, Rules and Regulations.

## **ARTICLE 15. MEMBER TO COMPLY WITH ALL CORPORATE REGULATIONS**

The Member covenants and agrees that Member will preserve and promote the cooperative ownership principles on which the Corporation has been founded, abide by this Occupancy Agreement, the Declaration and Instrument of Adoption, the Articles, Bylaws, and the Policies, Rules and Regulations of the Corporation and any amendments thereto, and by Member’s acts of cooperation with its other members bring about for Member and Member’s co-members a high standard in home and community conditions.

## **ARTICLE 16. EFFECT OF LOSS ON INTERESTS OF MEMBER**

If any part of the Dwelling Unit or the building in which the Dwelling Unit is located is destroyed by fire, casualty, or other cause not the fault of Member, the Corporation shall determine whether to restore the damaged premises. If the Corporation determines to undertake restoration, the Corporation, at its cost, shall promptly repair and restore the building to its

former condition, and shall promptly repair and restore the Dwelling Unit in accordance with the following standards: (1) walls and ceilings shall be returned to “paint ready” condition; (2) floors shall be returned to original construction move-in condition, or its equivalent, at the Corporation’s discretion; and (3) closets, doors, and kitchen cabinets shall be returned to original construction move-in condition.

While the repairs and restoration work are in progress, the Regular Assessments payable under the Occupancy Agreement shall be abated for the time and to the extent that Member is prevented from fully occupying the premises in Member's usual and normal manner; provided, however, that in lieu of making those repairs and performing that restoration work, the Corporation may terminate the Occupancy Agreement if either (a) the necessary repair or restoration work cannot reasonably be completed under then-applicable governmental laws and regulations within twelve (12) months after it is commenced, or (b) the loss is not covered by the Corporation's then-existing fire and extended coverage insurance policies or such other insurance policies procured by the Corporation.

In the event of an insurance covered loss, and the Corporation decides not to restore the Premises, the Corporation shall determine an equitable prorated sum of the insurance proceeds received by the Corporation to be paid to the Member to redeem the common stock of the Member. Said amount to be subject to all unpaid Assessments of the Member together with any interest charges or costs of collection attributable thereto. Further, when the Corporation decides not to restore the Premises, the Assessments shall cease from the date of loss or damage.

In no event shall the Corporation be responsible for any loss or damage to the personal property of Member or for improvements made to the Dwelling Unit by Member or previous occupants of the Dwelling Unit.

## **ARTICLE 17. RIGHT OF ENTRY INTO DWELLING UNIT; MEMBER LIABILITY**

17.1 Right of Entry. The Corporation and the Corporation's agents may enter the Dwelling Unit only under the following circumstances:

- (a) In case of emergency.
- (b) To make necessary or agreed repairs, decorations, alterations, or improvements and/or supply necessary or agreed services as provided in this Agreement.
- (c) After Member has abandoned or surrendered the Dwelling Unit.
- (d) Pursuant to court order.
- (e) To conduct an inspection of fixtures, pipes and appliances if the Corporation reasonably believes that an Dwelling Unit is vacant or intermittently occupied.
- (f) To inspect any and all construction or improvements made or being made to an Dwelling Unit, whether or not approval was required or granted.
- (g) To determine the source of damage. The right of entry shall include the right to open up walls, ceilings and floors, as may be necessary to identify the component

causing the damage. If the source of the damage is a component for which the Member is responsible to maintain, then, after notice and a hearing, the Board shall have the authority to assess as an Individual Special Assessment to the Member responsible for maintaining such component, the costs incurred by the Corporation in gaining access, identifying and (if necessary) repairing the source of the damage.

17.2 Notice. Except in the case of an emergency, the Corporation shall give Member twenty-four (24) hours' notice of the Corporation's intent to enter the Dwelling Unit. The Corporation and the Corporation's agents shall enter an Dwelling Unit only during normal business hours, except (1) in cases of emergency, (2) if the Member has abandoned or surrendered the Dwelling Unit, or (3) if it is impractical to do so.

17.3 Member Consent. Member agrees to provide access to the Dwelling Unit in a timely manner as provided herein.

17.4 Member Liability.

(a) Each Member shall be liable to the Corporation for any damage to the Development or any common improvements, landscaping or equipment thereon which may be sustained by reason of the negligence, misuse or willful misconduct of said Member and anyone occupying or visiting the Dwelling Unit (including, but not limited to, equipment or appliance failure within the Member's Dwelling Unit) and shall be assessed by the Board as an Individual Special Assessment for the cost of repair or replacement thereof, together with costs and attorneys' fees. Such Assessment shall be due and payable within thirty (30) days after written notice thereof by the Board.

(b) Member shall be liable for any damage to another Corporation dwelling unit caused by the following:

- (1) Negligence or willful misconduct by the Member.
- (2) Negligence or willful misconduct by anyone occupying or visiting the Dwelling Unit.
- (3) Equipment or appliance failure within the Member's Dwelling Unit.

## **ARTICLE 18. SUBORDINATION CLAUSE**

It is specifically understood and agreed by the parties hereto that this Agreement and all rights, privileges and benefits hereunder are and shall be at all times subject to, subordinate and inferior to the lien of any first mortgage or deed of trust hereinafter obtained by the Corporation, and to any and all modifications, extensions and renewals of such loans or advances and to any mortgage or deed of trust made in replacement of such mortgages or deed of trust and to such additional loans or advances as may thereafter be made by or borrowed from any beneficiary, its successors or assigns, together with interest thereon on the date any such loans or advances are made, and to any mortgages or deeds of trust, consolidation agreements and other accompanying documents given to secure any such additional loans or advances which may at any time hereafter be placed on the real property hereinafter described, or any part thereof by the

Corporation. The Member hereby agrees to execute in a timely manner, at the Corporation's request and expense, any instrument which the Corporation or any lender may deem necessary or desirable to effect the subordination of this Agreement to any such mortgage or deed of trust, and the Member hereby appoints the Corporation and each and every officer thereof, and any future officer, Member's irrevocable attorney-in-fact during the term hereof to execute any such instrument on behalf of the Member. The Member does hereby expressly waive any and all notices of default and notices of foreclosure of said mortgage which may be required by law. In the event a waiver of such notices is not legally valid, the Member does hereby constitute and appoint the Corporation as Member's agent to receive and accept such notices on the Member's behalf. The real property encumbered by or which may in the future be encumbered by said mortgage or deed of trust is as set forth in the Declaration and Instrument of Adoption.

#### **ARTICLE 19. NOTICES**

Except as provided herein with regard to entry into a Dwelling Unit, and as otherwise provided by law, whenever the provisions of law or the Bylaws of the Corporation or this Agreement require notice to be given to either party hereto, such notice may be given in writing by depositing the same in a post office or letter box, in a postage paid, sealed wrapper addressed to the person to whom the notice is to be given, at Member's address as the same appears in the books of the Corporation, and the time when the same shall be mailed shall be deemed to be the time of the giving of such notice.

#### **ARTICLE 20. FISCAL REPORTS**

At the end of each fiscal year, the Corporation shall furnish to the Member a statement of the income and disbursements of the Corporation.

#### **ARTICLE 21. ORAL REPRESENTATION NOT BINDING**

No representations other than those contained in this Agreement, the Declaration and Instrument of Adoption, the Articles of Incorporation and the Bylaws of the Corporation shall be binding upon the Corporation.

#### **ARTICLE 22. REMEDIES**

The exercise of any of the rights or remedies as herein provided with respect to any default shall not preclude or affect the subsequent exercise of such rights or remedies at different times and for different defaults.

The respective rights and remedies, whether provided by this Agreement or by law, or available in equity, shall be cumulative and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such right or remedies for the same or different defaults, or for the same or different failures of the Member to perform or observe any provision of this Agreement.

**ARTICLE 23. ATTORNEYS FEES**

23.1 Should any litigation be commenced between the parties to this Occupancy Agreement concerning the Dwelling Unit, this Occupancy Agreement, or the rights and duties of either in relation thereto, the party prevailing in that litigation shall be entitled, in addition to any other relief granted, a reasonable sum as and for attorneys' fees, which shall be determined by the court or in a separate action brought for that purpose.

23.2 If a Member defaults in making a payment of Assessments or in the performance or observance of any provision of this Agreement, and the Corporation has obtained the services of any attorney with respect to the defaults involved, the Member covenants and agrees to pay to the Corporation any costs or fees involved, including reasonable attorney's fees, notwithstanding the fact that a suit has not yet been instituted. In case a suit is instituted, the Member shall also pay the cost of the suit, in addition to the other aforesaid costs and fees.

**ARTICLE 24. REFERENCES TO STATUTES AND GOVERNING DOCUMENTS**

24.1 Wherever reference is made herein to a California statute, including without limitation the California Civil Code or California Corporations Code, or to another governing document of the Corporation, such reference shall continue to apply to such statute or governing document as it may be amended, modified, superseded or renumbered from time to time and/or any successor statute or governing document, as the case may be.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed as of the day and year first above written.

**NOTE: THE TERM OF THIS OCCUPANCY AGREEMENT IS AUTOMATICALLY RENEWABLE FOR SUCCESSIVE THREE-YEAR PERIODS UNDER (AND SUBJECT TO) THE TERMS AND CONDITIONS SET FORTH HEREIN.**

SEAL BEACH MUTUAL NO. TWELVE

By: \_\_\_\_\_

\_\_\_\_\_ Member

Its: \_\_\_\_\_

An authorized signatory

\_\_\_\_\_ Member