Adopt 02-7514-04

SEAL BEACH MUTUAL NO. TWO

Resident Regulations

Patio or Garden Area Installation, Maintenance, and Indemnity Agreement Form

This *Patio or Garden Area Installation, Maintenance, and Indemnity Agreement* ("Agreement") is by and between Seal Beach Mutual No. Two, a California corporation ("Mutual") and _____ ("Shareholders[1]"). The Mutual and Shareholders are referred to collectively as the "Parties" and individually as a "Party."

RECITALS

A. Whereas, the Mutual is, and at all times mentioned herein was, a corporation organized and existing under and by virtue of the laws of the State of California. It is organized for the purpose of providing its common stockholders with housing on a non-profit basis consistent with the provisions set forth in its articles of incorporation, bylaws, and other governing documents (collectively "Governing Documents").

B. Whereas, Mutual is the owner of certain real property and improvements thereon known as Seal Beach Mutual No. Two, which is located in Seal Beach, County of Orange, State of California ("Complex").

C. Whereas, in accordance with the Governing Documents, Mutual has the sole and exclusive right and duty to manage, operate, and control the Complex, including those portions of the Complex designated as the common area, and has all the power necessary to carry out its rights and obligations.

D. Whereas, Shareholders are, and at all times mentioned herein are shareholders of Mutual by way of the occupancy agreement entered into between the Parties, dated _____, for the unit located at _____ ("Unit").

E. Whereas, Shareholders must obtain the approval of the Mutual in order to make exterior/structural changes to the common area per the Governing Documents.

F. Whereas, Shareholders desire to install:

[ ] a patio; or

[ ] a garden area

[1]Even if there is just one shareholder, the plural "Shareholders" is used throughout the Agreement.

on common area located in front of the Unit (the "Installation"), pursuant to the plans and specifications on file with the Mutual and have obtained the approval of the Mutual to do so.

G. Whereas, Shareholders represent and warrant that they have obtained all other approvals and/or permits required for the Installation, including any approval and/or permit required from the City, County, GRF, and/or the Mutual, as may be applicable, and, have provided sufficient evidence of the same to the Mutual.

H. Whereas, as a condition of the Mutual's approval of the Installation, the Parties hereby enter into this Agreement.

I. Whereas, the Parties have agreed to be bound by the provisions provided for in this Agreement and applicable provisions of the Civil Code, which will permit Shareholders to perform the Installation in exchange for certain maintenance costs and indemnity obligations as provided for herein.

AGREEMENT

NOW THEREFORE, in exchange for the releases, promises and other consideration described in this Agreement, and by incorporation of the recitals referenced above, the Parties agree as follows:

1. Permission for the Installation. The Mutual hereby grants permission to Shareholders for the Installation of the proposed Installation in front of the Unit, and at such specific location as approved by the Mutual, subject to the conditions and limitations contained herein and in the Mutual's written approval. If at any time should Shareholders fail to comply with any of the terms or conditions contained in this Agreement, such permission shall be immediately revoked and the common area shall be put back into its original condition at Shareholders' sole cost and expense. Each of Shareholders' obligations under this Agreement are a material term, and breach of any of Shareholders' obligations shall be considered a material breach of this Agreement.

2. No Grant of Exclusive Use. Shareholders expressly acknowledge and agree, and the Mutual provides, no grant of exclusive use of the common area for the Installation and use of the Installation. The common area on which the Installation is installed will remain common area for the mutual benefit and use of all Shareholders of the Mutual. As such, Shareholders further acknowledge and agree that they have no right or authority to preclude any other shareholder from using the Installation, as the Installation is on common area that is owned by the Mutual and implemented and maintained for the mutual benefit and use for all Shareholders.

3. Indemnity and Release of the Mutual. Shareholders, on behalf of himself, herself, and any heirs, representatives, successors and assigns, hereby indemnifies, holds harmless, shall defend, and releases the Mutual and its officers, directors, employees, shareholders, attorneys, and agents, and each of them, from any and all claims, debts, liabilities, demands, and causes of action, whether known or unknown, now and in the future, arising from or related to any loss or

damage, including, without limitation, water damage, and any other damage sustained from or arising from the Installation's construction, maintenance, use, existence, or removal, or any claims relating to the legality of the Installation and/or any legal challenge concerning the Installation by any other shareholder of the Mutual, and shall remove the subject Installation in the event of such challenge. Shareholders agree to be solely responsible for any damage caused to the Installation, the common area, or to any other property of the Mutual as a result of the installation, maintenance, use, existence, or removal of the Installation. Shareholders further agree to be solely responsible for any costs incurred by Shareholders and/or the Mutual, including actual attorney fees, in the defense of any legal or other challenge to the construction, maintenance, use, existence, or removal of the Installation, as described herein.

4. **Future Maintenance and Repair.** Shareholders hereby agree to: (i) maintain, repair and replace every part of the Installation so as to maintain the same in a safe, attractive, operational, and first class state of repair; (ii) repair any and all damage to the common area or Mutual Property which occurs due to the installation, use, maintenance, existence, repair and/or replacement of the Installation; and (iii) abide by all rules of the Mutual with respect to use or maintenance of the Installation. Shareholders agree to pay to the Mutual the actual increase in any costs, if any, to maintain, repair, and/or replace any building components or common area as a result of the installation, maintenance, use, and/or existence of the Installation.

5. **Transfer of the Unit.** Shareholders agree that prior to the sale or transfer of the Unit to another, either: (i) the Installation and related components shall be removed and the common area restored back to its original condition, at the Shareholders' expense, or (ii) the transferee of the Unit shall sign a counterpart addendum to this Agreement whereby the transferee agrees to assume, abide by, and be bound by all of the terms herein as the Shareholders.

6. **Shareholders' Insurance.** Shareholders agree to continuously maintain, during the term of the Agreement, comprehensive general liability insurance for bodily injury and property damage for any liability or claims, demands, damages, costs or judgments arising out of or related to the design, construction, installation, maintenance, use or repair of the Installation and any portion of the common area which the Installation occupies.

7. **Termination.** The license granted herein is revocable and may be terminated by the Mutual at will or upon the following events: (i) where any shareholder within the Mutual files a court action to challenge the revocable license granted herein as being contrary to the Governing Documents or California law; (ii) where a court determines that the Agreement or the revocable license granted herein are contrary to the Governing Documents or California law; and/or (iii) where Shareholders breach any of the terms of this Agreement and fails to cure said breach following a thirty (30)-day written notice by the Mutual and the opportunity to cure the breach. Where there is a third-party claim against the Mutual but termination is not obligatory, the Mutual, at its option, may require that Shareholders indemnify the Association as set forth above, and deposit a sum sufficient to cover all litigation expenses and attorney's fees into an escrow account established by the Mutual. Upon termination of this Agreement, Shareholders shall

remove the Installation and restore the common area to its prior unmodified condition and/or shall cause the affected property to be redone to the currently prescribed Mutual standard, at Shareholders' sole cost and expense. Shareholders agree that any cost or expense incurred by the Association to restore the common area upon termination of this Agreement may, or any expense for which the Shareholders are liable hereunder, may, if unpaid by Shareholders, be levied as a charge against the Shareholders' account.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9. **Modifications.** This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement signed by all of the Parties hereto.

10. **Successors in Interest.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective directors, officers, agents, shareholders, partners, shareholders, servants, employees, affiliates, representatives, heirs, executors, executrix, conservators, successors, beneficiaries, and assigns.

11. **Further Assurances.** The Parties shall timely execute and deliver any and all further documents that may be reasonably necessary to effectuate the provisions of this Agreement, including any documents necessary to allow this Agreement to run with the land. This Agreement may be recorded against the Unit in the Mutual's sole discretion.

12. **Tax Consequences.** Each Party is responsible for their own tax consequences, if any, related to this Agreement.

13. **Attorneys' Fees.** If any act at law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover actual attorneys' fees, which may be determined by the court in the same action or in a separate action brought for that purpose in addition to any other relief to which that Party may be entitled.

14. **No Reliance and Advice of Counsel.** The Parties have been instructed to and have had the opportunity to have this Agreement reviewed by independent counsel of their own choosing, and by entering into this Agreement neither Party has relied upon the advice of the other Party. Each Party hereto executes this Agreement acting upon its independent judgment and upon the advice of its respective counsel, if applicable, without any representation, express or implied, of any kind or nature, from each to the other, except as only specifically set forth herein.

15. **Counterparts.** This Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and shall be effective when all parties have executed a counterpart. Signatures on this Agreement transmitted by facsimile and/or other electronic means shall have the same force and effect as original signatures.

16. **Captions and Interpretations.** The paragraph titles, headings or captions are inserted in this Agreement as a matter of convenience. As such, the paragraph titles, headings or captions are not intended to define, limit or describe the scope of any provision, and shall not affect the interpretation of any paragraph hereto.

17. **Singular, Plural, and Gender Usage.** Whenever applicable within this Agreement, the masculine, feminine and/or neutral gender shall be deemed to include the other, and the singular and plural are each deemed to refer to the other.

18. **Authority to Enter Agreement.** This Agreement is the result of arms-length negotiations. Each signatory to this Agreement represents and warrants to the others that he or she has full authority and is duly and fully authorized to execute this Agreement.

19. **Incorporation of Recitals.** Paragraphs A through I, inclusive, of the Recitals hereof are fully incorporated herein and are true and correct. These Recitals are intended and shall be deemed and construed to be a material and integral portion of this Agreement.

20. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement and supersedes and replaces all prior agreements and understandings, whether oral or in writing, and may not be modified or amended except by written instrument signed by all Parties.

21. **Intent of the Parties.** It is the intent of this Agreement that the Shareholders and each successive owner of the Installation shall be responsible for all of the following: (1) costs for damage to the Installation, common area, or other Mutual property resulting from the installation, maintenance, repair, removal, existence, use, or replacement of the Installation; (2) costs for the maintenance, repair, and replacement of the Installation until it has been removed and for the restoration of the common area after removal, as may be applicable; and (3) disclosing to prospective transferees the existence of the Installation and the related responsibilities of the Shareholders under this Agreement.

The Parties hereto have executed the Agreement as of the date(s) set forth hereinbelow.

[signature page to follow]

SHAREHOLDER(S):

Signed: _____

Date: _____

Print Name: _____

Signed: _____

Date: _____

Print Name: _____

SEAL BEACH MUTUAL NO. TWO:

Signed: _____

Date: _____

Title: _____

Signed: _____

Date: _____

Title: _____

DOCUMENT HISTORY
Adopted: 20 October 2022