

NOTICE

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

DocuSigned by:
Julie A. Broussard
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1/23/2024 | 9:54 PM PST

RESTRICTIVE COVENANT MODIFICATION

The following referenced document contains a restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Government Code Section 12955, or ancestry, that violates state and federal fair housing laws and that restriction is void.

Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) of the document recorded on _____(date) in book _____and page _____, or as instrument number _____ of the official records of the County of Solano, State of California.

Attached hereto is a true, correct, and complete copy of the document referenced above, with the unlawfully restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956.2 of the Government Code.

The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original document.

Signature of Submitting Party: _____ Date: _____

____County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

Or
____County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

Approved:

by: _____ Date _____
Deputy County Counsel

Effective 7/1/22

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Signature _____ (Seal)

-----OPTIONAL-----

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Government Code section 12956.1.

(a) As used in this section.

(1) "Association," "governing documents," and "declaration" have the same meanings as set forth in Sections 4080, 4135, and 4150 or Sections 6528, 6546, and 6552 of the Civil Code.

(2) "Redaction" means the process of rerecording of a document that originally contained unlawful restrictive language, and when presented to the county recorder for rerecording, no longer contains the unlawful language or the unlawful language is masked so that it is not readable or visible.

(3) "Redacted" means the result of the rerecording of a document that originally contained unlawful restrictive language, and when presented to the county recorder for rerecording, no longer contains the unlawful language or the unlawful language is masked so that it is not readable or visible.

(b) (1) A county recorder, title company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface type, the following:

"If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

(2) The requirements of paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(3) A title company, escrow company, or association that delivers a copy of a declaration, governing document, or deed directly to a person who holds an ownership interest of record in property shall also provide a Restrictive Covenant Modification form with procedural information for appropriate processing along with the document.

(c) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document. Notwithstanding any other provision of law, a

prosecution for a violation of this subdivision shall commence within three years after the discovery of the recording of the document.

Government Code section 12956.2.

(a) (1) A person who holds or is acquiring an ownership interest of record in property that the person believes is the subject of an unlawfully restrictive covenant in violation of subdivision (l) of Section 12955 may record a document titled Restrictive Covenant Modification. A title company, escrow company, county recorder, real estate broker, real estate agent, or other person also may record the modification document provided for in this section. The county recorder may waive the fee prescribed for recording and indexing instruments pursuant to Section 27361 in the case of a restrictive covenant modification document. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive covenant language redacted.

(2) Beginning July 1, 2022, if a title company, escrow company, real estate broker, or real estate agent has actual knowledge that a declaration, governing document, or deed that is being directly delivered to a person who holds or is acquiring an ownership interest in property includes a possible unlawfully restrictive covenant, they shall notify the person who holds or is acquiring the ownership interest in the property of the existence of that covenant and their ability to have it removed through the restrictive covenant modification process. There shall be no presumption that a party providing a document has read the document or has actual knowledge of its content.

(3) Beginning July 1, 2022, if requested before the close of escrow, the title company or escrow company directly involved in the pending transaction shall assist in the preparation of a Restrictive Covenant Modification pursuant to this section, but the title company or escrow company shall have no liability associated with the recordation of a Restrictive Covenant Modification that contains modifications not authorized by this section on behalf of the requester.

(b) (1) Before recording the Restrictive Covenant Modification document, the county recorder shall submit the modification document and the original document to the county counsel who shall determine whether the language in the original document contains an unlawful restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry. The county counsel shall return the documents and inform the county recorder of its determination within a period of time specified in paragraph (2). The county recorder shall refuse to record the modification document if the county counsel or their designee finds that the original document does not contain an unlawful restriction as specified in this subdivision or the modification document contains modifications not authorized by this section.

(2) For documents recorded pursuant to subdivision (a), the period of time shall be a reasonable period of time, not to exceed three months, from the date the request for recordation is made, unless extraordinary circumstances apply.

(c) If a person requests to record a modification document, that person shall provide a return address in order for the county recorder to notify this person of the action taken

by the county counsel on the respective property. The notice required pursuant to this subdivision may be made on a postcard mailed by first-class mail.

(d) The modification document shall be indexed in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording.

(e) Subject to covenants, conditions, and restrictions that were recorded after the recording of the original document that contains the unlawfully restrictive language and subject to covenants, conditions, and restrictions that will be recorded after the Restrictive Covenant Modification, the restrictions in the Restrictive Covenant Modification, once recorded, are the only restrictions having effect on the property. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(f) A Restrictive Covenant Modification form shall be prepared and accepted for submission and recordation in all counties in substantially the following form:

RESTRICTIVE COVENANT MODIFICATION:

The following reference document contains a restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in Section 12955 of the Government Code, or ancestry, that violates state and federal fair housing laws and is void. Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) ___ of the document recorded on _____(date) in book _____ and page _____ or instrument number _____ of the official records of the County of _____, State of California.

Attached hereto is a true, correct and complete copy of the document referenced above, with the unlawful restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956 of the Government Code.

The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(Signature of submitting party)

_____ County Counsel, or their designee, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

Or

_____ County Counsel, or their designee, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

County Counsel

By:

Date:

(g) The county recorder shall make available to the public Restrictive Covenant Modification forms onsite in an appropriately designated area, or online on the county recorder's internet website, either of which shall be deemed to satisfy the requirement of paragraphs (1) and (2) of subdivision (b) of Section 12956.1 to provide a Restrictive Covenant Modification form if the procedural information for appropriate processing is attached to the form. Those forms shall permit multiple submissions on behalf of different homes and for processing homes in batches with respect to a modification document that affects multiple homes or lots. The forms shall also permit the submission of a restrictive covenant modification form for a homeowners' association or a common interest development to modify covenants, conditions, and restrictions that will correct unlawfully restrictive covenants for multiple dwellings within a subdivision.

(h) If a person causes to be recorded a modified document pursuant to this section that contains modifications not authorized by this section, the county recorder shall not incur liability for recording the document. The liability that may result from the unauthorized recordation is the sole responsibility of the person who caused the modified recordation as provided in subdivision (a).

(i) (1) A restrictive covenant modification that is approved by county counsel or their designee and recorded pursuant to this section removes the illegal covenant from all property affected by the original covenant regardless of who submits the modification.

(2) This section does not affect the obligations of the governing board of a common interest development as defined in Section 4100 or 6534 of the Civil Code if the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 4225 or of subdivision (b) of Section 6606 of the Civil Code.

(j) For purposes of this section, "redaction" and "redacted" mean the same as defined in Section 12956.1.

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2001-00077680

Chicago Title Company

Recorded By:

41 RecFee 205.00

CHICAGO TITLE CO. - FAIRFIELD

CTC

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AND WHEN RECORDED RETURN TO:

Official Records
County of Solano
Robert Blechschmidt
Assessor/Recorder

14:58 17-JUL-01 AR21 67 Pgs

McCutchen, Doyle, Brown & Enersen
1333 N. California Blvd., Ste. 210
Walnut Creek, CA 94596

Order No. 1046981 TP

Attn: Lisa D. Weil

Space above this line for Recorder's use only

DocuSigned by:

Julie A. Broussard

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1/23/2024 | 9:54 PM PST

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR THE WOODLAKE HOMEOWNERS'
ASSOCIATION**

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RECORDING REQUESTED BY:

AND WHEN RECORDED SEND TO:

McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
1333 North California Boulevard, Suite 210
Post Office Box V
Walnut Creek, California 94596
Attn: Lisa Weil

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE
WOODLAKE HOMEOWNERS' ASSOCIATION**

This Declaration of Covenants, Conditions and Restrictions for the Woodlake Homeowners' Association ("Declaration") is made as of July 12, 2001, by Woodlake L.P., a Delaware limited partnership ("Declarant").

**ARTICLE ONE
DECLARATION**

A. Declarant owns that certain real property in the City of Fairfield, County of Solano, State of California, described as follows (the "Subject Property"):

Lots 27-83, inclusive, as shown on a Final Map recorded on March 1, 2001, in the Official Records of the County in Book 71 of Maps at Page 68 et seq.

Lots 14-26, inclusive; 84-103, inclusive; and 146-155, inclusive, as shown on a Final Map recorded on March 1, 2001, in the Official Records of the County in Book 71 of Maps at Page 72 et seq.

Lots 104-108, inclusive; 129-145, inclusive; 160-185, inclusive; 196-199, inclusive; and 222-223, inclusive, as shown on a Final Map recorded on June 8, 2001, in the Official Records of the County in Book 71 of Maps at Page 99 et seq.

Lots 109-128, inclusive; 186-195, inclusive; and 200-221, inclusive, as shown on a Final Map recorded on June 8, 2001, in the Official Records of the County in Book 72 of Maps at Page 1 et seq.

B. Declarant desires and intends to develop the Subject Property and the Additional Property as a planned development (as defined in Section 1351(k) of the Civil Code) in order to

ensure the preservation of the values and the aesthetic environment of the Project for the benefit of the Owners, and to this objective, to impose on the Project, these mutually beneficial restrictions, easements, assessments, liens, covenants and conditions under a general plan or scheme of improvement and development for the mutual benefit of all of the Owners of Lots and Common Area within the Woodlake planned development.

C. Declarant intends to develop the Project in multiple phases. The first phase consists of the Subject Property; subsequent phases may consist of all or any part of the real property described in the attached Exhibit A ("Additional Property"). The first phase of the Project will be subject to this Declaration upon recordation. Subsequent phases will be subject to this Declaration upon recording a Declaration of Annexation for that Phase as provided in Section 3.4.3.

D. This Declaration provides for the establishment of a mandatory homeowners association, "Woodlake Homeowners' Association," of which each Owner of a Lot within the Project will be a Member. It shall be the responsibility and duty of the Association, among other things, to own and maintain the Common Area including landscaped areas, open space, and recreational facilities; to enforce this Declaration (and in particular the design review regulations), and to levy and collect assessments on the Members to fund such activities.

E. Declarant hereby declares that the Project shall be held, transferred, sold, conveyed, leased and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration.

ARTICLE TWO DEFINITIONS

As used in this Declaration, the following terms shall (unless the context dictates otherwise) have the meanings given in this Article 2 (regardless of whether the initial letter of the term is in lower case or upper case):

2.1 Additional Charges. Additional Charges shall have the meaning given in Section 5.9.3.

2.2 Additional Property. The real property described in Exhibit A attached, together with all Improvements situated thereon from time to time.

2.3 Alterations. Any Improvements constructed on any portion of the Property by any person or entity other than Declarant, and any modifications, renovations, expansions, reconstruction, refinishing or other changes or alterations to any existing or future Improvements performed on any portion of the Property by any Person other than Declarant.

2.4 Annexation. Execution of the process described in Section 3.4 by which all or a part of the Additional Property will be made subject to this Declaration and included in the Project.

2.5 Articles. The Articles of Incorporation of the Woodlake Homeowners' Association, which are or shall be filed in the office of the California Secretary of State, as amended from time to time.

2.6 Assessments. Any or all Regular Assessments, Reimbursement Assessments and Special Assessments that may be levied pursuant to this Declaration or a Supplemental Declaration.

2.7 Association. The Woodlake Homeowners' Association, a California nonprofit mutual benefit corporation, and its successors and assigns.

2.8 Board. The Board of Directors of the Association.

2.9 Budget. The annual operating budget prepared by the Association pursuant to Section 10.1 of the Bylaws.

2.10 Bylaws. The Bylaws of the Association adopted by the Board, as amended from time to time.

2.11 City. The City of Fairfield, California.

2.12 Common Area. All of the real property designated as "Common Area" in a Declaration of Annexation, together with all Improvements situated thereon from time to time. The Common Area includes Parcel 2, which is the lake commonly known as Horseshoe Lake.

2.13 County. Solano, California.

2.14 Declarant. Woodlake LP, a Delaware limited partnership, and any successor or assign designated by Declarant to have the rights of a Declarant by a written instrument duly recorded in the Official Records of the County. There may be more than one Declarant.

2.15 Declaration of Annexation. An instrument recorded pursuant to Section 3.4 in order to annex Additional Property into the Project.

2.16 Design Review Committee. The Design Review Committee appointed pursuant to Section 8.3 of the Bylaws.

2.17 Director. A member of the Board.

2.18 DRE. The State of California Department of Real Estate.

2.19 Eligible Holder. Any Institutional Mortgagee that has: (a) delivered a written notice to the Association containing the name and address of the Institutional Mortgagee, and the number or address of the Lot encumbered by the Mortgage; and (b) requested that the Association deliver written notice to it of any or all of the events specified in Section 13.5.

2.20 First Mortgagee. Any person or entity, including without limitation an Institutional Mortgagee, holding a Mortgage that has priority under the recording statutes of the State of California over all other Mortgages encumbering a particular Lot.

2.21 Governing Documents. The Articles, the Bylaws, this Declaration and the Rules and Regulations.

2.22 Improvements. All Residences, other buildings and structures, streets, fences, walls, paving, pipes, wires, grading, landscaping and other works of improvement (as defined in Section 3106 of the California Civil Code) constructed, installed or planted on the Property.

2.23 Institutional Mortgagee. A First Mortgagee that is: (a) a bank, savings and loan association, insurance or mortgage company or other entity or institution that is chartered under or regulated by any federal or state law; or (b) an insurer or governmental guarantor of a First Mortgage, including without limitation the Federal Housing Authority and the Veterans Administration.

2.24 Invitee. Any person whose presence at a particular location is approved by, permitted, suffered by or at the request of a particular person or entity, including without limitation all tenants, family members, guests, employees, agents, contractors, licensees and invitees.

2.25 Lake Management Plan. The document entitled Woodlake Management Plan dated October, 2000, prepared by Perry Lake Management and Applied Ecology.

2.26 LLD. The City of Fairfield Landscaping and Lighting District No. 14.

2.27 Lot. Any parcel of land within the Property on which a Residence may legally be constructed, whether or not one has been constructed, together with any and all Improvements thereon.

2.28 Maintenance. The exercise of reasonable care to keep Residences and other Improvements and fixtures in a state similar to their original condition, normal wear and tear excepted. With respect to landscaping, "maintenance" shall include without limitation the exercise of regular fertilization, irrigation, cultivation, replacement of dead or diseased plant materials and other garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

2.29 Map. Those certain final subdivision maps recorded in Book 71 at Pages 68 et seq., Book 71 at Pages 72 et seq., Book 71 at Pages 99 et seq., Book 71 at Pages 1 et seq. and Book 42 at Pages 59 et seq., in the Official Records of the County. With respect to the Additional Property, any subdivision maps so identified in a Declaration of Annexation singly or collectively. References to a "Map" also shall include without limitation any alteration shown on any subsequently recorded amended final map, certificate of correction, lot line adjustment and/or record of survey which affects the boundaries of any of the real property described in the Map.

2.30 Member. Any Owner.

2.31 Mortgage. Any duly recorded deed of trust or mortgage encumbering one or more Lots.

2.32 Mortgage Lien. The lien, charge or security interest created by a Mortgage.

2.33 Mortgagee. A beneficiary under or holder/mortgagee of a Mortgage.

2.34 Mortgagor. A trustor under a duly recorded deed of trust, or a maker/mortgagor under a duly recorded mortgage.

2.35 Notice and Hearing Requirements. The notice and hearing requirements set forth in Section 14.2.

2.36 Owner. Any Person shown by an instrument duly recorded in the County Recorder's Office to be the owner or a co-owner of fee title to a Lot. The term "Owner" shall include contract purchasers and exclude contract sellers. Declarant shall be the Owner of each Lot until such time as the Lot is transferred of record by Declarant.

2.37 Owner's Parties. With respect to a particular Owner, that Owner's family members, tenants and contract purchasers, and all of their respective Invitees.

2.38 Person. Any natural person or other legal entity.

2.39 Phase. Any Lots and/or Common Areas that are simultaneously made subject to the provisions of this Declaration by recordation of either this Declaration or a Declaration of Annexation.

2.40 Project. The development and operation of the Property as a residential common interest development in accordance with the common plan of development set forth in these Governing Documents.

2.41 Property. The Subject Property, and so much of the Additional Property as at the time has been annexed into the Project and made subject to this Declaration pursuant to the provisions of Section 3.4.

2.42 Public Report. A Final Subdivision Public Report issued by the DRE for a Phase of the Property.

2.43 Referee. The judicial referee selected in accordance with the provisions of Section 11.4.

2.44 Regular Assessment. An Assessment levied against an Owner pursuant to Section 5.2.

2.45 Reimbursement Assessment. An Assessment levied against an Owner pursuant to Section 5.4.

2.46 Residence. A dwelling, including any attached garage, situated on a Lot.

2.47 Rules and Regulations. Any rules and regulations promulgated by the Board from time to time pursuant to the Governing Documents, as amended.

2.48 Special Assessment. An Assessment levied against an Owner pursuant to Section 5.4.

2.49 Subject Property. The real property described in Recital A.

2.50 Supplemental Declaration. A supplemental declaration that imposes such additional covenants, conditions and restrictions upon all or any portion(s) of the Property as Declarant may deem necessary or desirable (including without limitation the creation of a Subassociation). A Declaration of Annexation may also be a Supplemental Declaration.

2.51 Voting Power. The phrases "voting power" and "total voting power" shall have the same meaning, and shall mean all of the votes of a class of Members which at any time could be cast at a meeting of the Members of the Association. In all circumstances in which the Members must approve a matter and the Governing Documents do not specify that approval requires a particular percentage of the voting power, the matter may be approved by a majority of a quorum of the Members.

**ARTICLE THREE
DIVISION OF PROPERTY; ANNEXATION AND DEANNEXATION**

3.1 Division of Property. All of the Property is hereby divided into Lots and Common Area.

3.2 Ownership of Common Area. Title to or a legal ownership interest in the Common Area shall be conveyed by Declarant to the Association prior to or concurrently with the conveyance of the first Lot to an Owner other than Declarant. The Association shall be deemed to have accepted title to the Common Area conveyed to it when: (a) a grant deed conveying title to the Common Area has been recorded in the Official Records of the County; and (b) Regular Assessments have commenced.

3.3 Non-Severability. The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. An Owner shall not convey a Lot separately from the Owner's interest in the Common Area. Any conveyance of a Lot shall automatically transfer to the new Owner the right to use the Common Area, regardless of whether the document conveying title has expressly referenced this right. Each Owner, whether taking ownership by deed, gift, devise, foreclosure, operation of law or otherwise, for the Owner's benefit and for the benefit of all other Owners and each of the Owner's successors, specifically waives, releases and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Area and does further agree that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The ownership interest in the Common Area and Lots described in this Section 3.3 are subject to the easements described, granted and reserved in this Declaration.

3.4 Annexation of Subsequent Phases. The Additional Property may be annexed to the Project and made subject to this Declaration only in accordance with the provisions of this Section 3.4.

3.4.1 Declarant's Annexation Rights. Declarant may, but shall not be required to, annex all or any portion of the Additional Property to the Project in one or more increments from time to time without the vote or approval of any other Owners or the Association; provided, however, that the Annexation of the Additional Property shall be in substantial conformance with a detailed plan of phased development submitted to and approved by the DRE at the time of Declarant's application for a Public Report for the first phase of the Project. The plan of phased development submitted to the DRE shall include, but not necessarily be limited to, the following:

(a) Proof satisfactory to the DRE that the Annexation will not overburden the Common Area.

(b) Proof satisfactory to the DRE that the Annexation will not cause a substantial increase in the Regular Assessments levied against the Owners (other than Declarant) which was not disclosed in the Public Reports under which such Owners purchased their Lots.

(c) Identification of the real property proposed to be annexed and the total number of Lots then contemplated by Declarant for all Phases of the Project.

(d) A written commitment by the subdivider to pay to the Association, concurrently with the closing of the escrow for the first sale of a subdivision interest in an annexed phase, appropriate amounts for reserves for replacement or deferred maintenance of common area improvements in the annexed phase necessitated by or arising out of the use and occupancy of residential units under a rental program conducted by the subdivider which has been in effect for a period of at least one year as of the date of closing of the escrow for the first sale of a residential unit in the annexed phase.

The foregoing requirements shall be conclusively presumed satisfied upon approval of the plan of phased development by the DRE, as evidenced by the issuance of a Public Report for the first Phase of the Project.

3.4.2 Annexation Pursuant to Approval. Unless the Annexation is made pursuant to the plan of phased development approved by the DRE as provided in Section 3.4.1, Annexation shall occur only with the approval of 51% of all Eligible Holders, and of the Association pursuant to the vote or written consent of 2/3 of the Total Voting Power of the Association residing in Members other than Declarant.

3.4.3 Annexation Procedure. To effectuate an Annexation, Declarant (in the case of an Annexation pursuant to Section 3.4.1) or the Board (in the case of an Annexation pursuant to Section 3.4.2) shall record a Declaration of Annexation describing the real property to be Annexed. The Declaration of Annexation shall specify that all of the covenants, conditions and restrictions of this Declaration shall apply to the annexed property in the same manner as if it were originally part of the Property subject to the Declaration, and may provide for such additional covenants, conditions and restrictions on the annexed property as may be deemed necessary or desirable by Declarant; provided, however, that a Declaration of Annexation may

not alter or change the general common plan or scheme created by this Declaration, nor affect the provisions hereof or thereof as covenants running with the land or equitable servitudes, it being the express desire and intention of Declarant to establish a cohesive plan of covenants and servitudes to be uniformly applicable to all portions of the Project.

3.4.4 Effect of Annexation. At all times after the Declaration of Annexation has been recorded, the Annexed property shall be subject to this Declaration, all Owners shall be entitled to the use of all Common Area (subject to the provisions of this Declaration), and Owners of Lots situated on the Annexed property shall be subject to this Declaration and, upon commencement of assessments, shall be entitled to Membership in the Association.

3.4.5 Prior to Annexation. No portion of the Additional Property shall be subject to the provisions of this Declaration unless and until it is Annexed; provided, however, that any provisions of this Declaration that are expressly made applicable to the Additional Property prior to Annexation shall so apply. This Declaration shall not be construed to constitute a limitation on Declarant's title or other rights to the Additional Property prior to its annexation, nor shall it impose any obligation on Declarant or any other person or entity to improve, develop or annex any portion of the Additional Property. Without limiting the generality of the foregoing, this Declaration shall not be construed to limit Declarant's right at any time prior to annexation to grant, establish or create additional licenses, easements, reservations, restrictions and rights-of-way for itself, utility companies or others as Declarant may deem necessary or desirable in connection with the ownership, operation, maintenance, development or disposition of any property owned by Declarant.

3.5 Deannexation.

3.5.1 Declarant's Rights of Deannexation. Declarant may deannex any previously annexed Phase (or portion thereof) without the approval of any other Owners or the Association provided:

(a) No Common Area that is a part of the Phase (or portion thereof) to be deannexed has been conveyed to the Association; and

(b) No proceeds from any Regular or Special Assessments have been expended for goods, services or improvements for the Phase (or portion thereof) to be deannexed. Without limiting the generality of the foregoing, no Assessments shall have commenced, and no Association maintenance obligations shall have commenced with respect to the Common Area in the Phase (or portion thereof) to be deannexed.

ARTICLE FOUR THE ASSOCIATION

4.1 Organization; General Powers. The Association shall be established no later than the date the first Lot is sold by Declarant and shall be organized as a nonprofit mutual benefit corporation under the General Nonprofit Corporation Law of the State of California. The Association shall have the power and duty to administer and maintain the Property and the Common Area in addition to those powers and duties specifically described in the Governing Documents. The Association shall also have the general power to do all things that a corporation

organized under the laws of the State of California may lawfully do, so long as such actions are for the peace, health, comfort, safety or general welfare of the Members and their guests, subject only to the limitations expressly described in, the Governing Documents. Except as otherwise prohibited by this Declaration, the Association may delegate any of its power to committees, officers or employees of the Association as a majority of the Board deems appropriate. However, the Association may not delegate to officers or employees of the Association any power to levy fines, hold the hearings described in Section 14.2 or impose discipline on Members.

4.2 Membership. Every record Owner of a Lot shall be a Member of the Association, and ownership of a Lot shall be the sole qualification for membership in the Association. Association membership is appurtenant to and may not be separated from the ownership of a Lot. Association membership shall not be transferred, sold, pledged or alienated in any way except upon the transfer of title to the Owner's Lot, and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer shall be void and of no effect. Membership shall not be related to the Member's use or failure to use the Common Area and may not be renounced by a Member. The Association shall revise its membership records to reflect a change in ownership of a Lot.

4.3 Classes of Membership; Voting Privileges. The Association shall have two classes of voting membership, described as follows:

4.3.1 Class A Membership. All of the Owners except Declarant shall be Class A Members. Class A Members shall be entitled to one vote for each Lot owned.

4.3.2 Class B Membership. Declarant shall be the sole Class B Member. The Class B Member shall be entitled to three votes for each Lot owned. The Class B membership shall cease and irreversibly be converted to Class A membership upon the first to occur of the following events: (a) two years following the first conveyance of a Lot in the most recent Phase; or (b) four years following the first conveyance of a Lot by Declarant.

4.4 Voting Rights; Threshold Required for Approval. A Member's right to vote shall be in effect immediately upon the date that the Lots become subject to Regular Assessments, as described in Section 5.2. Except as otherwise provided in the Bylaws and Section 14.9, wherever a provision of the Governing Documents requires the approval of Members other than Declarant, it shall be deemed to mean: (a) until Class B Membership has been converted to Class A Membership, the vote of the required percentage of the total voting power of both classes of Membership; and (b) after the Class B membership has been converted to Class A membership, (i) the vote of the required percentage of the total voting power of the Association, and (ii) the vote of the required percentage of the total voting power of Members other than Declarant.

4.5 Voting Procedures. Members may vote: (a) in person or by proxy at a meeting called and noticed pursuant to the Bylaws; or (b) by written consents pursuant to the procedures described in the Bylaws.

4.6 Voting by Multiple Owners. If a Lot is owned by more than one Person, each Person shall be a Member of the Association, but there shall be only one vote for each Lot and the joint Owners of the Lot shall determine among themselves how such vote will be cast. If any Owner casts a vote attributable to a certain Lot, it will be conclusively presumed for any and all purposes that the Person casting the vote was acting with the authority and consent of all other Owners of the same Lot. If more than one Owner of a Lot attempts to cast the vote attributable to that Lot, all such votes shall be void and the vote for that Lot shall not be counted.

4.7 Certificate of Approval. The certificate of any officer or officers of the Association authorized by resolution of the Board or of the president and secretary certifying that the required voting power of the Association has approved the execution, delivery and/or recordation of an amendment to any of the Governing Documents, any Supplemental Declaration or any other document requiring the approval of the voting power of the Association shall be deemed conclusive proof of such approval.

4.8 Insurance and Bonds.

4.8.1 Fire and Casualty Insurance. The Association shall maintain such casualty coverages and in such amounts as the Board deems appropriate in light of the nature of the Common Area, Improvements thereto and the personal property owned, leased, controlled or operated by the Association. Each Owner shall be responsible for obtaining insurance for the Improvements on its Lot, and for its furnishings, fixtures and other personal property.

4.8.2 Liability Insurance. The Association shall obtain a policy of comprehensive or commercial general liability insurance covering all of the Common Area and all other land, Improvements or spaces owned, leased, operated or otherwise used by the Association, whether or not leased to or used by a third party. Coverage shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, but in any event shall be not less than \$5,000,000 for personal injury, including deaths of persons, arising out of a single occurrence, and not less than \$5,000,000 for property damage arising out of a single occurrence. Coverage shall include without limitation liability for property damage (including deaths arising from the operation, maintenance or use of the Common Area) or from personal injury (including liability arising out of litigation related to employees of the Association). The policy (or policies) shall list the Association as "named" insured, and the Board and each Owner as additional insureds, and shall include a cross-liability endorsement or other provision of similar effect.

4.8.3 Workers' Compensation. The Association shall obtain such workers' compensation insurance as it may deem prudent, and in any event at least to the extent required under any applicable law.

4.8.4 Reimbursement of Declarant. The premiums for any of the insurance policies procured pursuant to this Section 4.8, if paid by Declarant and not prorated between Owners and Declarant in the closing escrows for the Lots, shall be prorated between Declarant and the Association on the basis of a 360-day year as of the date on which Regular Assessments commence, and the Association shall reimburse Declarant for that portion of any premiums applicable to the period from and after said date. Nothing contained in this Section 4.8, however,

shall relieve Declarant from its obligation to pay the pro rata share of insurance premiums attributable to each Lot owned by Declarant until such time as the Lot is transferred of record by Declarant.

4.8.5 Bonds. The Association shall obtain blanket fidelity bonds for all officers, directors, trustees and employees of the Association, and for all other persons handling or responsible for Association funds. If the Association has delegated any responsibility for the handling of funds to a management agent, a bond shall be obtained covering all management agent officers, employees and agents handling or responsible for Association funds. The amount of coverage shall be based upon the best business judgment of the Board, but shall not be less than the lesser of: (a) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent at any given time during the term of the bond; or (b) the sum of three months assessments on all Lots plus reserve funds. The bonds shall name the Association as an obligee and shall contain a waiver by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds shall also provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days written notice to the Association and each Owner.

4.8.6 Board Members' and Officers' Liability. The Association may obtain, at the discretion of the Board, a policy or policies of insurance covering the Owners, individually or collectively, and the Directors and officers of the Association, individually or collectively, against claims arising out of or based upon negligent acts, errors, omissions or alleged breaches of duty of any Director or any officer, while acting in its capacity as such, upon terms and in an amount to be determined by the Board.

4.8.7 Tort Actions. California Civil Code Section 1365.9 provides that any cause of action in tort against any Owner arising solely by reason of an ownership interest in the Common Area shall be brought against the Association and not against the individual Owners so long as the Association maintained and had in effect, both at the time the alleged act or omission occurred and at the time the claim is made, general liability insurance in the minimum amount of \$2,000,000 per occurrence, and the Association shall maintain such insurance.

4.8.8 Adjustment of Losses. Each Owner irrevocably appoints the Board as its attorney-in-fact to negotiate and agree on the value and extent of any loss under a policy of insurance carried by the Association pursuant to any of the provisions of this Section. The Board shall have full right and authority, by and on behalf of each and all Owners, to compromise any claim, enforce any claim by legal action or otherwise, and release and discharge any insurer.

4.8.9 FNMA and FHLMC Requirements. Notwithstanding any provision to the contrary elsewhere in this Declaration, the Association shall continuously maintain in effect such fire, casualty and liability insurance and fidelity bonds meeting the insurance and fidelity bond requirements for planned developments established by the Federal National Mortgage Association (or the Federal Home Loan Mortgage Corporation) so long as said agency(ies) has notified the Association in writing that it is a Mortgagee, Owner of a Lot or an insurer of any Mortgage or under contract to purchase a Mortgage, except to the extent that such coverage is not available or has been waived in writing by the Federal National Mortgage Association (or the

Federal Home Loan Mortgage Corporation). Such requirements may include without limitation an "Inflation Guard Endorsement."

ARTICLE FIVE ASSESSMENTS AND ACCOUNTS

5.1 Covenants to Pay. Declarant and each Owner shall pay to the Association the Assessments and any Additional Charges levied pursuant to this Article 5.

5.1.1 Liability for Payment. The obligation to pay Assessments shall run with the land so that each successive record Owner of a Lot shall in turn become liable to pay all such Assessments. No Owner may waive or otherwise escape personal liability for Assessments or release the Owner's Lot from the liens and charges hereof by non-use of the Common Area, abandonment of the Lot or any other attempt to renounce rights in the Common Area or the facilities or services within the Property. Each Assessment shall constitute a separate assessment and shall also be a separate, distinct and personal obligation of the Owners of the Lot at the time when the Assessment was levied and shall bind the Owner's heirs, devisees, personal representatives and assigns. Any Assessment not paid when due shall be delinquent. A successor Owner shall not be liable for delinquent Assessments unless the personal obligation is expressly assumed by the successive Owner. No such assumption of personal liability by a successor Owner (including a contract purchaser under an installment land contract) shall relieve any Owner from personal liability for delinquent Assessments. After an Owner transfers fee title of record to a Lot, the Owner shall not be liable for any Assessment or Additional Charge thereafter levied against that Lot, except for Additional Charges related to delinquent Assessments previously levied. As described in Sections 13.7 and 13.8, foreclosure of a lien for Assessment shall not impair or affect a First Mortgage lien.

5.1.2 Funds Held in Trust; Purpose of Assessments. The Assessments collected by the Association shall be held by the Association for and on behalf of the Owners and shall be used exclusively: (a) to promote the Owners' health, safety, recreation and welfare; (b) for the operation, care, repair, maintenance and improvement of the Property and any real or personal property in which the Association holds an interest as provided in this Declaration; and (c) to discharge any other Association obligations under the Governing Documents.

5.1.3 Offsets. No offsets against any Assessment shall be permitted for any reason, including without limitation any claim that the Association is not properly discharging its duties.

5.2 Regular Assessments.

5.2.1 Date of Commencement of Regular Assessments. Regular Assessments shall commence on all Lots in a Phase on the first day of the first calendar month following the first close of escrow for the sale by Declarant of a Lot in such Phase. The Board shall fix the amount of the Regular Assessment against each Lot at least 30 days in advance of each Regular Assessment period. If, before the expiration of any fiscal year, the Association fails to fix Regular Assessments for the next fiscal year, the Regular Assessment established for the preceding year shall continue until a new Regular Assessment is fixed, and such failure to fix

Regular Assessments shall not be deemed a waiver or modification of the Owners' obligation to pay Regular Assessments.

5.2.2 Payment of Regular Assessments. Regular Assessments for each fiscal year shall be established when the Board approves the Budget for that fiscal year. Regular Assessments shall be levied on a fiscal year basis; provided, however, that: (a) the first Regular Assessment shall be adjusted according to the number of months remaining in the Fiscal Year; and (b) each Owner may pay the Regular Assessment in 12 equal monthly installments, each installment payable on the first day of each calendar month during the fiscal year, so long as the Owner is not delinquent in the payment of any monthly installment. If an Owner fails to pay any monthly installment within 60 days after the date the installment was due, the Owner's right to continue to pay the Regular Assessment in monthly installments shall immediately terminate for that fiscal year unless otherwise determined by the Board.

5.2.3 Determination of Regular Assessments. The Association's anticipated revenue attributable to Regular Assessments, as reflected in the Budget, for that fiscal year shall be assessed equally among the Lots as the Regular Assessment for each Lot. For the first fiscal year of the Association, the Budget shall be substantially based upon the operating budget accepted by the DRE.

5.2.4 Exemptions from Regular Assessment. Notwithstanding any provisions of Section 5.2.1 above to the contrary:

(a) **Residences.** An Owner shall be exempt from payment of that portion of the Regular Assessment which is allocated for defraying operating expenses and reserves directly attributable to the existence and use of the Owner's Residence, and any landscaping situated on the Owner's Lot, until the first to occur of the following events: (i) a notice of completion of construction of the Residence has been recorded; (ii) the Residence is occupied or otherwise used by the Owner or Person(s) authorized by the Owner; or (iii) completion of all elements of the Residences which the Association is obligated to maintain.

(b) **Other Common Areas.** All Owners shall be exempt from payment of that portion of the Regular Assessment which is allocated for operating expenses and reserves directly attributable to the existence and use of Improvements located on the Common Area that are not complete at the time Regular Assessments commence, until the date: (i) a notice of completion of the Common Area Improvement(s) is recorded; or (ii) the Common Area Improvement(s) have been placed into use.

5.2.5 Automatic Assessment Increases for Additional Phases. Notwithstanding any other provisions of this Section 5.2, upon commencement of Assessments for each Phase after the first Phase, the Regular Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Common Area in such additional Phase so long as: (a) the Phase is permitted by DRE; and (b) the amount of such increase does not result in the levy of a Regular Assessment which is greater than the maximum potential Regular Assessment disclosed in all Final Subdivision Public Reports for the Project previously issued by the DRE. However, to minimize the need for frequent adjustments in the amount of the Regular Assessments during the development of the Property, the Board may stabilize the amount of the

Regular Assessments invoiced to the Owners at a level amount calculated to defray the annual expenses of the Association during the time that Regular Assessments are fluctuating due to the periodic addition of Lots and Common Area.

5.3 Special Assessments. Subject to the limitations set forth in Section 5.7, the Board may levy Special Assessments in addition to Regular Assessments for: (a) constructing capital Improvements in the Common Area; (b) collecting any shortfall between the Association's expected income and estimated expenses for a fiscal year; (c) defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of Improvements in the Common Area; or (d) paying for such other matters as the Board may deem appropriate for the Project as a whole. Special Assessments shall be allocated equally among the Lots.

5.4 Reimbursement Assessment. The Association may levy a Reimbursement Assessment against an Owner to reimburse the Association: (a) for the costs of repairing damage to the Common Area caused by that Owner or that Owner's Parties; or (b) for an expenditure of monies, including without limitation attorneys' fees, by the Association to bring the Owner or the Owner's Lot or Improvements into compliance caused by Owner's failure to comply with the Governing Documents; or (c) for a fine or penalty, so long as the Board has adopted a policy authorizing monetary fines and penalties, as described in Section 5.6. A Reimbursement Assessment shall be due and payable to the Association within 30 days after the date levied. A Reimbursement Assessment shall not be levied by the Association until Notice and Hearing Requirements in respect of an Owner have been satisfied. The limitations described in Section 5.7 shall not apply to Reimbursement Assessments. Notwithstanding any other provision in the Governing Documents expressed or implied to the contrary, Reimbursement Assessments are assessments but they may not be enforced by any lien rights provided in this Declaration, except that Reimbursement Assessments levied against an Owner due to damage to the Common Area caused by an Owner or Owner's Parties that remain unpaid may become a lien upon the affected Owner's Lot and the Association shall have all the rights and remedies described in Section 14.3 with respect to such Reimbursement Assessment.

5.5 Special Benefit Assessment.

5.5.1 In General. The Board may levy Special Benefit Assessments for expenses relating to maintenance, repair or other services deemed to be necessary by the Board that benefit, directly or indirectly, only those Lots in the applicable Special Benefit Area. The Board shall provide all of the Owners in such Special Benefit Area with a budget for the Special Benefit Assessment, including an estimate of: (a) the operating and maintenance expenses to be paid by the Association in the performance of the Special Benefit Area services, on an accrual basis; (b) the income and other revenues, if any, expected to be earned by the Association relating to the Special Benefit Area Services, on an accrual basis; and (c) the unexpended surplus, if any, expected to be available with respect to the Special Benefit Area Services. The Special Benefit Assessment shall be assessed equally against all Lots located in the applicable Special Benefit Area. Any unexpended surplus remaining after each fiscal year shall be used to decrease any Special Benefit Assessments in that Special Benefit Area.

5.5.2 Increase in Special Benefit Assessment. The Board may not, without the approval of a majority of a quorum of the Members in a particular Special Benefit Area obtained at a meeting or election of the Association or a meeting of the Members of such Special Benefit Area, impose a Special Benefit Assessment per Lot which is more than 20% greater than the Special Benefit Assessment for such Special Benefit Area for the immediately preceding fiscal year.

5.5.3 Additional Special Benefit Area Assessment. In any fiscal year, the Board may not, without the approval of a majority of a quorum of the Members in a particular Special Benefit Area obtained at a meeting or election of the Association or a meeting of the Members of such Special Benefit Area, levy assessments to defray the costs of any action or undertaking on behalf of the Lots within such Special Benefit Area which in the aggregate exceed 5% of the Special Benefit Area Assessment for that fiscal year.

5.5.4 Approval of Members. Notwithstanding any other provision in the Governing Documents, any action expressly for the benefit of a Special Benefit Area or the Members therein which requires a vote of the Association shall require the approval of the prescribed percentage of the class or classes of membership or the approval of Members other than Declarant of only those Members who own Lots within such Special Benefit Area.

5.6 Monetary Penalties. The Board may adopt a policy imposing any monetary penalty on or charging any fee to any Owner for a violation of the Governing Documents by that Owner or that Owner's Parties. If the Board elects to do so, it shall adopt a schedule of the monetary penalties that may be assessed for those violations, consistent with the Governing Documents, and shall deliver a copy of the schedule either personally or by first-class mail, postage prepaid, to each Owner. Each time the schedule is modified, the Board shall again deliver a copy to each Owner, either personally or by first-class mail, postage prepaid.

5.7 Increase Limitations.

5.7.1 In General. This Section 5.7 is intended to implement the limitations on increases in Regular and Special Assessments established by Section 1366 of the California Civil Code. To the extent that the limitations set forth in Section 1366 are amended or replaced, the limitations set forth in this Section 5.7 shall be automatically amended and replaced by the new statutory limitations. Further, if the limitations set forth in Section 1366 are repealed, the provisions of this Section 5.7 shall no longer have any force or effect.

5.7.2 Limitation on Regular Assessment Increases in Excess of Twenty Percent. Without the approval of a majority of a quorum of the Members obtained at a meeting or election of the Association, the Board shall be prohibited from levying a Regular Assessment which is more than 20% greater than the Regular Assessment per Lot for the immediately preceding fiscal year.

5.7.3 Five Percent Special Assessment Limitation. Without the approval of a majority of a quorum of the Members obtained at a meeting or election of the Association, the Board shall be prohibited from levying Special Assessments within a single fiscal year which in the aggregate exceed 5% of the budgeted gross expenses for that fiscal year.

5.7.4 Budget Distribution Limitation. Without the approval of a majority of a quorum of the Members obtained at a meeting or election of the Association, the Board shall be prohibited from levying a Regular Assessment which is greater than the Regular Assessment per Lot for the immediately preceding fiscal year unless the Board has distributed a Budget in compliance with Section 1365(a) of the California Civil Code. The pro forma operating Budget requirements currently established by Section 1365(a) are set forth in Section 10.1 of the Bylaws.

5.7.5 Emergency Exceptions. The limitations set forth in Sections 5.7.2, 5.7.3 and 5.7.4 above shall not apply to any Special Assessment or any increase in Regular Assessments necessary for: (a) extraordinary expenses required by an order of a court; (b) extraordinary expenses necessary to repair or maintain a discovered threat to personal safety in the Property or any part of it for which the Association is responsible; or (c) extraordinary expenses necessary to repair or maintain the Property or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board when it prepared and distributed the Budget or Budget summary to the Members. Prior to the imposition or collection of an assessment pursuant to clause (c) of this Section 5.7.5, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expenses involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the notice of increased Assessment.

5.7.6 Quorum and Meeting. For the purpose of this Section 5.7, a quorum means more than 50% of the Voting Power of the Association. Any meeting or election of the Association for the purposes of complying with this Section 5.7 shall be conducted in accordance with the Bylaws.

5.7.7 Notice of Increased Assessments. The Board shall provide notice by first-class mail to the Owners of any increase in Regular Assessments or the levy of any Special Assessments not less than 30 and not more than 60 days prior to the increased Regular Assessment or Special Assessment becoming due.

5.8 Accounts.

5.8.1 Types of Accounts. Assessments collected by the Association shall be deposited into at least two separate accounts with a responsible federally insured financial institution, which accounts shall be clearly designated as: (a) the "Current Operation Account"; and (b) the "Reserve Account." However, these accounts may be combined for the purpose of qualifying for more favorable terms or interest rates so long as the accounting records for the Association clearly reflect deposits and disbursements to each account so the funds will be used for the proper purpose. The Board shall deposit those portions of the Assessments collected for current maintenance and operation into the Current Operation Account and shall deposit those portions of the Assessments collected as reserves for replacement and deferred maintenance of major components which the Association is obligated to repair into the Reserve Account.

5.8.2 Reserve Account.

(a) *Withdrawal of funds from the Reserve Account shall require the signatures of either two Directors or one Director and one officer of the Association who is not a Director.*

(b) *The Board shall expend funds collected for the Reserve Account only for: (i) the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration or maintenance of those Common Area Improvements which the Association is obligated to repair, restore, replace or maintain and for which the Reserve Account was established; and (ii) such other purposes as are expressly authorized by law or the Governing Documents.*

(c) *Notwithstanding Section 5.8.2(b) above, and so long as authorized by Civil Code Section 1365.5, the Board may authorize the temporary transfer of money from the Reserve Account to the Current Operation Account to meet short-term cash-flow requirements or other expenses as long as the Board has made a written finding, recorded in the minutes, explaining the reasons why the transfer is needed and describing when and how the money will be repaid to the Reserve Account. The transferred funds shall be restored to the Reserve Account within one year of the date of the initial transfer, unless the Board makes a finding supported by documentation that a temporary delay would be in the best interests of the Property. If the Board makes such a finding, the Board may delay the restoration until the time which the Board reasonably determines is necessary. The Board shall exercise prudent fiscal management in maintaining the integrity of the Reserve Account; and if necessary, the Board shall levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this Section 5.8.2. Any Special Assessment levied pursuant to the preceding sentence is subject to the limitations imposed by Section 5.7.*

(d) *When a decision is made to use Reserve Account funds or to temporarily transfer money from the Reserve Account to pay for litigation, the Association shall notify the Members of that decision, and of the availability of an accounting of these expenses, in the next mailing to the Members of a written notice or report, as defined in Section 5016 of the Corporations Code. The Association shall prepare a quarterly accounting of expenses related to the litigation. The accounting shall be available for inspection by Members at the Association's office, and the Members shall also be given notice of such availability.*

5.8.3 Current Operation Account. All other costs properly payable by the Association shall be paid from the Current Operation Account.

5.8.4 Statement of Outstanding Charges. Within ten days of a written request by an Owner, the Association shall provide to the Owner a written statement which sets forth the amounts of delinquent assessments, penalties, attorneys' fees and other charges against that Owner's Lot. The Association may charge a fee for the statement, not to exceed the reasonable costs of preparation and reproduction of the statement.

5.9 Enforcement of Assessments.

5.9.1 Annual Statement of Policies. The Board shall annually distribute, not more than 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of Regular Assessments, Special Assessments and Reimbursement Assessments, including without limitation the recording and foreclosing of liens against Owners' Lots.

5.9.2 Enforcement Procedures. In addition to all other remedies provided by law, the Association, or its authorized representative, may enforce the obligations of the Owners to pay the Assessments provided for in this Declaration in any manner provided by law, and by either or both of the following procedures:

(a) **By Suit.** The Association may commence and maintain a suit at law against any Owner personally obligated to pay a delinquent Assessment. The suit shall be maintained in the name of the Association. Any judgment rendered in any action shall include the amount of the delinquency, Additional Charges (and any other amounts as the court may award. A proceeding to recover a judgment for unpaid Assessments may be maintained without the necessity of foreclosing or waiving the lien established herein.

(b) **By Lien.** The Association or a trustee nominated by the Association may commence and maintain proceedings to establish and/or foreclose assessment liens for defaults by Owners in the payment of Assessments (the Association's ability to do so with respect to Reimbursement Assessments is limited by Section 5.4). Fifteen days after the occurrence of any such default, the Association may give a courtesy notice to the defaulting Owner or Owners demanding payment.

Before the Association may record a notice of delinquent assessment ("Notice of Delinquent Assessment") and place a lien on the delinquent Owner's Lot, and provided that the assessment has remained delinquent for at least 15 days, the Association must: (i) notify the Owner in writing by certified mail of the fee and penalty procedures and collection practices of the Association, including the right of the Association to recover from the Owner the reasonable costs of collection; and (ii) provide the Owner with an itemized statement of the charges owed by the Owner, including separate itemizations of the principal owed, any late charges, the method of calculation and any attorney's fees. Any payment toward such debt shall be applied first against the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses. If the amount of the delinquency plus interest and late payment charges is not paid within ten days after delivery of the notice described above, the Association may record a Notice of Delinquent Assessment against and place a lien on the Lot for which there is a delinquent assessment.

For purposes of this Section 5.9, the Owner or Owners of a Lot for which there is a delinquent Assessment shall be referred to as a "delinquent Owner" or "delinquent Owners."

No action shall be brought to foreclose a lien until the lien is created by recording a Notice of Delinquent Assessment which shall state: (A) the name or names of the delinquent Owner or Owners; (B) a legal description of the Lot against which notice of delinquent

assessment is made; (C) the amount claimed to be due and owing; (D) that the notice of delinquent assessment is made by the Association pursuant to the terms of this Declaration (giving the date of execution and the date, book and page references of the recording thereof in the Office of the County Recorder); (E) the name and address of the trustee authorized by the Association through exercise of its rights of substitution of trustee pursuant to Civil Code Sections 1367(e) and 2934a to conduct a non-judicial sale; and (F) that a lien is claimed against the Lot in an amount equal to the amount of the stated delinquency plus interest thereon from the date of delinquency, late payment charges, costs and reasonable attorneys' fees. The Notice of Delinquent Assessment shall be signed by an Officer of the Association, and shall be mailed to all record Owners of the Lot in the manner set forth in Civil Code Section 2924b within ten days of the date of recordation. The lien shall attach immediately upon recordation of the Notice of Delinquent Assessment subject only to the limitations hereinafter set forth. The lien shall not be affected by any sale or transfer of the Lot. Each default shall constitute a separate basis for a lien.

Provided that 30 days have passed since the recordation of the Notice of Delinquent Assessment, any such lien may be foreclosed by appropriate action in court or in the manner provided in Section 1367 of the Civil Code. In the event foreclosure is by action in court, reasonable attorneys' fees shall be allowed. In the event foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be deemed to be acting as the agent of the Association for conduct of the sale and shall be entitled to expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The Association, acting on behalf of the Owners, shall have the right to bid on the Lot of the delinquent Owner or Owners at the foreclosure sale and to acquire, hold, lease, mortgage and convey for valuable consideration the Lot.

5.9.3 Additional Charges. In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any assessments, each Owner agrees to pay such Additional Charges as the Association may incur or levy in the process of collecting from that Owner monies due and delinquent ("Additional Charges"). All Additional Charges shall be included in any judgment in any suit or action brought to enforce collection of delinquent Assessments or may be levied against a Lot as a Reimbursement Assessment. Additional Charges shall include, but not be limited to, the following:

(a) **Attorneys' Fees.** Reasonable attorneys' fees and costs incurred in the event an attorney(s) is employed to collect any Assessment or sum due, including Additional Charges, whether by suit or otherwise;

(b) **Late Charges; Collection Costs.** Late charges and collection costs in the amounts to be fixed by the Board in accordance with Section 1366(d)(2) of the Civil Code, any successor statute or other applicable laws of the State of California; provided, however, in the absence of a statute limiting the amount of late charges, such reasonable amounts as the Board may require to compensate the Association for additional collection costs incurred in the event any assessment or other sum is not paid when due;

(c) **Costs of Suit.** Costs of suit and court costs incurred as are allowed by the court;

(d) **Interest.** Interest on the delinquent Assessment and Additional Charges at a rate fixed by the Board in accordance with Section 1366(d)(3) of the California Civil Code, any successor statute or other applicable laws of the State of California; provided, however, in the absence of such a statute such reasonable rate as the Board may set; and

(e) **Other.** Any such other additional costs that the Association may incur in the process of collecting delinquent Assessments or sums.

5.9.4 Certificate of Satisfaction of Lien. Upon payment or other satisfaction of a Delinquent Assessment for which a Notice of Delinquent Assessment was recorded, the Association shall record, at the delinquent Owner's cost, a certificate stating the satisfaction and release of the assessment lien.

5.9.5 Waiver of Homestead Protections. Each Owner hereby waives, to the extent permitted by law, the protections of any declared homestead or homestead exemption or redemption laws under the laws of California as applied to any action to enforce or collect Assessments levied by the Association.

5.10 Subordination of Lien. Notwithstanding any provision to the contrary, the liens for Assessments created pursuant to this Declaration shall be subject and subordinate to and shall not affect the rights of the holder of a First Mortgage made in good faith and for value. For purposes of this Section 5.10, a Mortgage may be given in good faith or for value even though the Mortgagee has constructive or actual knowledge of the Assessment lien provisions of this Declaration.

ARTICLE SIX DECLARANT'S RIGHTS

6.1 Declarant Exemption. Declarant or its successors or assigns intends, but is not obligated, to construct Residences and develop all of the Lots at the Property. The completion of that work and sale, resale, rental and other disposal of Lots is essential to the establishment and welfare of the Project as a quality residential community. As used in this Section 6.1, the words "its successors or assigns" specifically do not include purchasers of Lots pursuant to transactions requiring the issuance of a Final Subdivision Public Report. In order that development of the Property may be completed and the Project established as a fully occupied residential community as rapidly as possible, neither the Association nor any Owner may do anything to interfere with, and nothing in this Declaration shall be understood or construed to:

6.1.1 Prevent Declarant, its successors or assigns, or any of their contractors or subcontractors, from doing on any Lot owned or controlled by them whatever they determine to be necessary or advisable in connection with the development of the Project, including without limitation altering of construction plans and designs as Declarant deems advisable in the course of development; or

6.1.2 Prevent Declarant, its successors or assigns, or any of their representatives, from erecting and maintaining on any portion of the Property owned or controlled by them, such Improvements as may be reasonably necessary to conduct the business of completing such work and establishing the Property as a residential community and disposing of the same by sale, resale, lease or otherwise; or

6.1.3 Prevent Declarant, its successors or assigns, or any of their contractors or subcontractors, from conducting on any Lot owned or controlled by them, the business of developing, altering, subdividing, grading and constructing Residences and other Improvements on the Property as a residential community and of disposing of Residences thereon by sale, lease or otherwise; or

6.1.4 Prevent Declarant, its successors or assigns or any of their contractors or subcontractors, from maintaining such signs on any portion of the Property owned or controlled by them as may be necessary or desirable in connection with the sale, lease or marketing of Lots and Residences in the Property; or

6.1.5 Prevent Declarant, at any time prior to acquisition of title to a Lot by a purchaser from Declarant, to establish on that Lot additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property; or

6.1.6 Prevent Declarant from unilaterally modifying its development plan for the Property and any additional Phase, including without limitation designating and redesignating Phases and constructing Residences of larger or smaller sizes, value or of different types.

6.2 Declarant's Rights with Respect to Construction and Notice. Declarant need not seek or obtain Design Review Committee approval of any Improvement that Declarant constructs, installs or plants on the Property. Declarant, in the exercise of its rights under this Section 6.2, may not unreasonably interfere with any other Owner's use of the Common Area. The Association shall provide Declarant with all notices and other documents to which an Owner is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefor. Commencing on the date on which Declarant no longer has an elected representative on the Board, and continuing until the later to occur of the date on which Declarant: (a) no longer owns a Lot at the Property; or (b) cannot unilaterally annex property to the Property, the Association shall provide Declarant with written notice of all meetings of the Board as if Declarant were an Owner, and Declarant shall be entitled to have a representative present at all such Board meetings ("Declarant's Representative"). The Declarant's Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

6.3 Supplemental Declaration. Declarant shall have the right to record a Supplemental Declaration for any purpose.

ARTICLE SEVEN USE RESTRICTIONS AND DISCLOSURES

7.1 Use of the Common Area. The Common Area is intended for the use and enjoyment of the Owners and the general public, subject to these use restrictions. No Owner or Owner's Parties may use the Common Area in violation of the terms of the Lake Management Plan. No Owner, Owner's Parties or the general public shall be permitted within the fenced area surrounding the Common Area. An Owner, Owner's Parties or the general public shall be permitted to fish in the Common Area subject to Rules and Regulations adopted by the Association. Except as specifically allowed in this Declaration, neither Declarant, the Association nor any Owners or Owner's Parties may: (a) obstruct the Common Area; (b) store anything in the Common Area except by the Association in areas designated for the storage of Association property; or (c) commit waste in the Common Area.

7.2 Residential Use. Each Lot shall be used exclusively for residential purposes except as otherwise provided in this Article 7. Notwithstanding any provision to the contrary herein, Declarant and its successors or assigns shall be allowed to use Residences as sales models.

7.3 Commercial Activity. No commercial enterprise, trade or activity shall be conducted in or upon a Lot or Residence, either directly or indirectly unless it satisfies all of the following requirements: (a) the use shall be clearly incidental and secondary to the use of the dwelling as a Residence; (b) the use shall be conducted entirely within the Residence and carried on only by the inhabitants thereof; (c) no article shall be sold or offered for sale from the Lot or Residence; (d) the use shall not generate vehicular or pedestrian traffic in excess of that which is normally associated with single-family residential use and shall require no additional parking spaces; (e) no professional equipment, apparatus or business equipment or trucks shall be kept or stored on the Lot; (f) the use shall not involve any exterior indication of the home occupation or alteration of the Residence to adopt to the home occupation; (g) the use shall not involve the use of an exterior sign, and shall not create noise, odor, dust, fumes, vibration, smoke, electrical interference, or other interference with the residential use of adjacent Lots; (h) no Person shall be employed in the Residence or dispatched from the Residence; and (i) the home occupation shall have no advertising of the home address in the telephone book, newspapers, world-wide web or other media of any kind. Nothing herein or elsewhere in this Declaration shall preclude any Owner from providing residential child care services in accordance with all applicable statutes, ordinances and other State and County requirements.

7.4 Lease. No Owner may lease or permit subleases of less than the entire Residence. No Owner may lease a Residence for transient or hotel purposes (a rental for any period less than 30 days or a rental which includes providing the occupants with customary hotel service such as room service for food and beverage, maid service, laundry and linen service or bellhop service). Unless the Board otherwise provides, any permitted lease of a Residence shall be in writing and shall provide that: (a) its terms are subject in all respects to the Governing Documents and the resolutions of the Board; and (b) any failure of the lessee to comply with the terms of the foregoing shall be a default under the lease and a failure to perform a condition and covenant of the lease. Within ten days after commencement of a lease or sublease, the Owner shall submit to the Board a statement signed by each lessee of the Residence, on a form provided by the Board,

in which each lessee agrees to abide by all of the provisions of this Declaration, the Bylaws, the rules and regulations of the Association and the resolutions of the Board. Any breach of the foregoing by a lessee shall be considered to be a breach by the Owner of the leased Residence. Other than as set forth in this Section 7.4, there is no restriction on the right of an Owner to lease its Residence.

7.5 Parking and Vehicular Restrictions.

7.5.1 Authorized Vehicles. The following vehicles are Authorized Vehicles: standard passenger vehicles, including without limitation automobiles, passenger vans designed to accommodate ten or fewer people, motorcycles, sport utility vehicles and pick-up trucks having a manufacturer's rating or payload capacity of one ton or less. Authorized Vehicles may be parked in any portion of the Property intended for parking of motorized vehicles; provided, however, that no Owner may park his or her vehicle in a manner which either restricts the passage of pedestrians or vehicles over streets or sidewalks within the Property or extends beyond the limits of the space where the vehicle is parked.

7.5.2 Prohibited Vehicles. The following vehicles are Prohibited Vehicles: (a) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks, limousines, etc.); (b) buses or vans designed to accommodate more than ten people; (c) vehicles having more than two axles; (d) trailers or mobile homes (whether towed or self-powered, and whether designed for permanent residence or recreational use), boats, trucks (other than pickup trucks with no greater than one-ton capacity), campers, recreational vehicles; (e) aircraft, other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Board; (f) inoperable or disabled automobiles or pickup trucks. Prohibited Vehicles may not be parked, stored, maintained, repaired, reconstructed, remodeled or kept: (i) on any public or private street within, adjacent to or visible from the Property or any other Common Area parking area except for brief periods for loading, unloading, making deliveries or emergency repairs; (ii) on the driveway or backyard of any Lot for more than forty-eight (48) hours, unless screened from view from all streets and other Lots; or (iii) on the front yard or lawn of any Lot at any time. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle, unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Board.

7.5.3 General Restrictions. Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Lot and kept within the Property must be parked in the garage of that Owner to the extent of the space available, provided that each Owner shall ensure that any such garage accommodates at least two Authorized Vehicles having four or more wheels. No repair, maintenance or restoration of any vehicles may be conducted on the Property except within an enclosed garage when the garage door is closed, provided such activity is not undertaken as a business, and provided that such activity may be prohibited entirely by the Board if the Board determines that it constitutes a nuisance.

7.5.4 Parking Regulations. The Board may establish additional regulations regarding any parking areas not assigned to individual Lots, including without limitation designating "parking," "guest parking," and "no parking" areas thereon and may enforce all

parking and vehicle use regulations applicable to the Property, including removing violating vehicles from the Property pursuant to California Vehicle Code Section 22658.2 or other applicable ordinances or statutes. If the Board fails to enforce any of the parking or vehicle use regulations, the City may enforce such regulations in accordance with applicable laws and ordinances.

7.6 Garages. Garage doors shall be closed when garages are not in use (the fact that a vehicle is parked in a garage shall not constitute "use"). No storage shall be permitted in any garage or covered parking space that interferes with the ability to park vehicles therein for an extended period of time.

7.7 Pets and Animals. An Owner may keep a reasonable number of uncaged household pets within that Owner's Lot as long as the animals are maintained in accordance with all applicable laws and have no impact on the wildlife in the area. Each Owner may also maintain a reasonable number of small caged animals, birds or fish. Unless the Rules and Regulations increase the number or type of animals which may be kept, no other animals or pets are permitted in the Project. No horses are permitted under any circumstances. The Board shall have the right to prohibit the keeping in the Project of any pet which, after Notice and Hearing, is found to be a nuisance to other Owners. No animals may be kept, bred or maintained for any commercial purposes. No dog shall be allowed in the Common Area unless it is under the control of a responsible person by leash or other means. Each Owner or Invitee shall restore the Common Area to the condition it was in immediately preceding its use by any dog for which such Owner or Invitee is responsible.

7.8 Landscaping. Within 180 days after close of escrow for the sale of a Lot by Declarant to an Owner other than Declarant, the new Owner shall install and thereafter maintain the landscaping on the Lot in a neat and attractive condition, including all necessary landscaping and gardening, and maintain and periodically replace when necessary any trees, plants, grass and other vegetation, if any, originally placed on the Lot by Declarant. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Lot. The Board may adopt rules and regulations to regulate landscaping permitted and required on Lots. If an Owner fails to install and maintain landscaping in conformance with this Section, the Association may, after Notice and Hearing, have the right to either seek any remedies at law or in equity which it may have to correct the condition or to enter upon the Lot and correct the condition, whereupon the Association shall levy a Reimbursement Assessment against the Owner for reasonable charges in connection with the correction and Owner shall immediately pay such Reimbursement Assessment.

7.9 Fences, Hedges and Walls. No fence, hedge, wall or other dividing instrumentality over six feet in height measured from the ground on which it stands shall be constructed or maintained on any Lot except by Declarant in accordance with its architectural plans. No gate shall be placed in any fence or wall lying on the boundary between a Lot and a Common Area parcel, except by Declarant in accordance with its architectural plans.

7.10 Signs. No sign, advertisement, poster, bill or notice of any kind (including without limitation political and commercial signs) shall be displayed to the public view on or from any Lot or the Common Area without the prior written consent of the Board, except for:

(a) Property identification signs maintained by Declarant; (b) a single sign, indicating the number of the Residence and the name of the Owner, which has been approved as to design, size and location by the Board; (c) a single sign of customary and reasonable dimensions advertising any Lot for sale, lease or rent and placed on the Lot; (d) signs required by legal proceedings; (e) signs maintained by Declarant in connection with its development and sales activities. The determinations of the Board shall be subject to Sections 712 and 713 of the California Civil Code and any successor or similar statutes, ordinances or other laws. All signs displayed in the Project shall be attractive and compatible with the design of the Project and shall comply with all applicable local ordinances.

7.11 Laundry. No exterior clotheslines shall be erected or maintained, and there shall be no drying or laundering of clothes on the Common Area or the open portion of any Lot. Garments, rugs or similar items shall not be hung from windows or the facades of Residences or other Improvements, and rugs, mats or similar items shall not be dusted or cleaned by beating from or against windows or facades of Residences or other Improvements.

7.12 Airspace and Exterior. Without the prior written authorization of the Board, no Owner shall install any sports standard, including without limitation a basketball goal, television, FM, AM, or amateur radio antenna or satellite dish, air conditioning unit, electrical or telephone wiring, or similar thing on the exterior of a Residence or other Improvement or in such a manner that it protrudes through a wall or the roof of a Residence or other Improvement unless in replacement of equipment originally installed by Declarant and identical in form and function to the equipment so replaced. Subject to Section 714 of the Civil Code, installation of solar energy systems (as defined in Civil Code Section 801.5) shall require the approval of the Design Review Committee. All ground-mounted equipment shall be screened from view with structures or landscaping consistent with this Declaration. Notwithstanding the foregoing, subject to such reasonable restrictions (as defined in and subject to Section 1376(b) of the Civil Code) as the Association may from time to time establish, an Owner may install and use a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less, provided that such antenna (or satellite dish) is not visible from any street or Common Area. Whenever approval is required for the installation of a video or television antenna, including a satellite dish, the application for approval shall be processed by the Design Review Committee in the same manner as an application for approval of an architectural modification to the Property as described in Article 10, and the issuance of a decision on the application shall not be willfully delayed.

7.13 Temporary Buildings. No outbuilding, tent, shack, shed or other temporary building or Improvement may be placed upon any portion of the Property either temporarily or permanently, without the prior written consent of the Board. No garage, carport, trailer, camper, motor home, recreation vehicle or other vehicle may be used as a residence on the Property, either temporarily or permanently.

7.14 No Nuisances; Plants and Pests. No noxious or offensive activities may be carried on upon the Property or on any public street abutting or visible from the Property. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Residence and its contents, may be placed or used on any Lot. Noisy, unsightly, unusually painted or smoky vehicles, large power equipment and large power tools (excluding

lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), off-road motor vehicles or other items which may unreasonably interfere with television or radio reception to any Lot, and objects which create or emit loud noises or noxious odors may not be located, used or placed in the Property or on any public street abutting the Property, or exposed to the view of other Owners without the Board's prior written approval. The Board shall have discretion to determine if any noise, odor, or activity producing such notice or odor constitutes a nuisance. No Owner may: (a) permit or cause anything to be done or kept on the Property or on any public street abutting the Property which may (i) increase the rate of insurance on the Common Area, (ii) result in the cancellation of such insurance, or (iii) obstruct or interfere with the rights of other Owners; or (b) commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all requirements of the local or state health authorities and with all other applicable laws, rules and regulations regarding occupancy and use of a Residence. Each Owner is accountable to the Association and other Owners for the conduct and behavior of all Owner's Parties. Any damage to the Common Area, personal property of the Association, Association Maintenance Areas or property of another Owner caused by such Owner or Owner's Parties shall be repaired at the sole expense of the Owner of the Lot where such Persons are residing or visiting. Neither an Owner nor any Owner's Parties shall permit any thing or condition which would induce, breed or harbor infectious plant diseases or noxious insects or vermin.

7.15 Drainage. There shall be no interference with or alteration of the established drainage patterns over any Lot or the Common Areas without the prior written consent of the Board and any public authority having jurisdiction. "Established Drainage Pattern" means the drainage that exists at the time Declarant conveys such Lot to an Owner.

7.16 Hydrocarbon and Mineral Exploration and Extraction; Storage Tanks. No water drilling, oil drilling, development or refining, and no quarrying or mining operations of any kind shall be permitted on the Property, nor shall oil wells, tanks, tunnels or mineral excavations be permitted upon the surface, or within 500 feet of the surface, of the Property, nor shall derricks or other structures designed for use in drilling for water, oil, natural gas, steam or other hydrocarbons or minerals be erected, maintained or operated upon any portion of the Property. No tank nor tower whether above or below the ground shall be kept on any Lot or the Common Area for the storage of any petroleum substance or any other toxic or hazardous substance.

7.17 No Insurance Burden. Nothing shall be done or kept in any Private Area or in the Common Area which would increase the rate of insurance or result in the cancellation of insurance on the Common Area or any part of the Property without the prior written consent of the Board. The Board may levy a Reimbursement Assessment against the Owner of a Lot to reimburse the Association for any such increase in the rate of insurance, provided that the responsible Owner was given notice and opportunity to be heard in accordance with Section 14.2.

7.18 No Further Subdivision. No Lot may be further subdivided without the prior written approval of the Board.

7.19 Subassociation Rules. Nothing herein shall prevent the enforcement of use restrictions set forth in a Supplemental Declaration or rules adopted by a Subassociation which are more restrictive than those set forth in this Declaration, provided that such restrictions and rules do not contradict any provision set forth in this Declaration.

7.20 View Obstructions. Neither Declarant nor the Association guarantees, represents or warrants any privacy or protected views within the Property, and no Lot is assured privacy or the existence or unobstructed continuation of any particular view. No other Improvement or obstruction may be constructed, planted or maintained upon any Lot in such location or of such height as to unreasonably obstruct the view from any other Lot in the vicinity thereof. If there is a dispute between Owners concerning the obstruction of a view from a Lot, the dispute shall be submitted to the Board, whose decision in such matters shall be binding. In considering views from one Lot over another Lot, the Board may balance the claim of one Owner to a reasonable view against the claim of another Owner to reasonable privacy rights. Any item or vegetation maintained upon any Lot which is exposed to the view of any Owner must be removed or otherwise altered to the Board's satisfaction, if it determines that the maintenance of such item or vegetation in its then-existing state is contrary to the purposes or provisions of Governing Documents. If an Owner fails to perform necessary pruning, trimming, or thinning, the Association may, after Notice and Hearing, enter upon such Lot to perform such work whereupon the Association shall levy a Reimbursement Assessment against the Owner for reasonable charges in connection with such work, and Owner shall immediately pay such Reimbursement Assessment.

7.21 Disclosures. Declarant makes the following disclosures as of the date of this Declaration. The information contained below is subject to change without notice to the Owners. Declarant shall have no liability whatsoever to the City, Owners or any Persons in connection with this Section 7.21.

7.21.1 Streets. The Project is bordered by the following future and existing arterial streets: (i) Clay Bank Road abuts the east boundary of the Project. This street will ultimately be a four lane arterial street, with the first two lanes being constructed in connection with the Project. The remaining two lanes will be constructed at a future date; (ii) Manual Campos Parkway abuts the north boundary of the Project. This street will ultimately be a six lane arterial street, with the first two lanes being constructed in connection with the Project. The remaining four lanes will be constructed at a future date.

7.21.2 Special Districts. The Project will be part of Community Facilities District #1, also known as the Open Space Mello Roos District, which funds acquisition of open space in the City. The Project will be part of Community Facilities District #5, also known as the Fairfield/Suisun School Mello Roos District, which funds new school construction. The Project will be part of the LLD as described in Section 9.1.5. All assessments will be collected with the property tax bill. Owners should contact the City for further information, including the amount of each assessment.

7.21.3 Lake. The approximate one-half acre park located on the north side of the Lake will be owned by the City. The park will be divided into two parts by a wrought iron fence. The portion of the park closest to the Lake will be maintained through the use of City-

wide park maintenance funds. The remainder of the park will be maintained using funds from the LLD. The park has been designed to allow public access to the Lake for fishing and viewing purposes. Swimming, boating, water sports or other intrusion into the Lake is not permitted. The Lake also serves as a stormwater detention basin.

7.21.4 Future Development. Future development is anticipated to occur on the north and east sides of the Project. The City has informed Declarant that the City has approved development of 334 single family detached homes to the north of the Project and the City anticipates development of a mixed use project to the east of the Project.

ARTICLE EIGHT EASEMENTS AND RESERVATIONS

8.1 General Easements.

8.1.1 Easements On Map. The Common Area and Lots are subject to the easements and rights of way shown on the Map.

8.1.2 Common Area Support and Maintenance. The Association is granted an easement over and through the Common Area and each Lot for the support, maintenance and repair of the Common Area, including without limitation for the repair and maintenance of the fence surrounding the Common Area.

8.1.3 Drainage. Each Lot and the Common Area are granted an easement over, under, across and through the Property (except for portions of the Property on which a structure is situated) for surface and subsurface storm drainage and the flow of storm waters in accordance with the natural drainage and the drainage and Improvements installed or constructed by Declarant.

8.1.4 Encroachment. If, as a result of construction, reconstruction, repair, shifting, settlement or movement, any portion of the Residence of one Owner or any fence or other improvement encroaches on any Owner's Lot, the encroaching Owner and the Association are granted an easement for the maintenance of such encroachment so long as it exists. None of the rights and obligations of the Association and the Owners created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. Easements are granted for the maintenance of said encroachments so long as they shall exist; but in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurs due to the willful conduct of said Owner or Owners.

8.1.5 Governmental Agencies. All governmental and quasi-governmental entities, agencies and utilities and their agents, including without limitation the LLD, are granted an easement over the Common Area and the Lots for the purposes of performing their duties within the Property.

8.2 Additional Owner Easements.

8.2.1 Common Area. Every Owner is granted an easement for the ingress, egress, use and enjoyment of the Common Area, subject to the right of the Association to dedicate and/or grant easements over all or any portion of the Common Area.

8.2.2 Water, Sewer, Utilities. Each Owner is granted an easement over, under, across and through the Property, except for portions of the Property on which an Improvement is situated, for utility lines, pipes, wires and conduits installed by Declarant.

8.3 Additional Association Easements.

8.3.1 Construction and Maintenance of Utilities. The Association shall have and enjoy rights of entry on, over, under, across and through the Property and every part thereof (including without limitation the Lots) for the installation, repair, maintenance and replacement of water, electric, telephone, gas, sanitary sewer lines and facilities, heating and air conditioning facilities, cable or master television antenna lines, drainage facilities, fire protection, or any similar utilities, whether now existing or hereafter necessary or appropriate to service the Property or any portion thereof (including the individual Lots), together with the right to transfer the same by permit, license, easement or otherwise, for the general benefit of the Property and the Owners of Lots therein.

8.3.2 Association Right of Entry. The Association is granted a right of entry upon any Lot as necessary in connection with the construction, maintenance, operation or emergency repair for the benefit of the Common Area or the Owners in common. Entry pursuant to *this right shall be restricted to reasonable times, shall be exercised in a reasonable manner, and shall be preceded by notice of at least 48 hours to the occupant unless entry is required by an emergency.*

8.4 Easements Reserved By Declarant.

8.4.1 Original Subdivision and Development Work. Declarant hereby expressly reserves easements on, over, under, across and through the Property (including without limitation the individual Lots) for the subdivision, construction, improvement and development of the Property including, without limitation thereto, the installation and maintenance of electric, telephone, cable television, water, gas, sewer, drainage and security systems, other utilities, equipment and facilities now or hereafter necessary or appropriate to service the Property, and the right to enter upon all or any portion of the Property (including without limitation individual Lots) for the purposes of conducting therein and thereon such work of subdivision, improvement, construction and development as Declarant may deem necessary or desirable to complete the development of the Property, together with the right to grant and transfer such easements. Upon such completion of the Property, or within five years after issuance of the Public Report for the final Phase of the Property, whichever is earlier, Declarant's easements and rights granted herein shall automatically terminate.

8.4.2 Sales Program. Declarant expressly reserves an easement on, over, across and through the Common Area for purposes of installing, relocating, replacing, repairing and maintaining such signs and sales displays as Declarant may deem necessary or desirable in

connection with Declarant's sales program. During such period, Declarant also reserves an easement to use the Common Area for the purposes of ingress, egress and parking in connection with Declarant's sales program, for use by Declarant, prospective purchasers of the Lots, sales personnel, media, suppliers and other designees of Declarant. Declarant shall pay to the Association reasonable rent for any portion of the Common Area used by Declarant as a sales office or for a similar use. Declarant's easements in the Common Area under this Section which exceed the rights of other Owners shall terminate upon the first to occur of the sale of all of the Lots to individual homeowners or five years after issuance of the Public Report for the final Phase of the Property.

8.4.3 Easement for Adjoining Property. Declarant hereby expressly reserves a right and easement over and across the Common Area for the purposes of reasonable ingress to and egress from, over and across the Property, including without limitation private roads and pathways, to the Additional Property until all of the Additional Property has been annexed to the Property.

8.5 General Provisions.

8.5.1 Covenants Running with the Land. Each of the easements described, granted or reserved herein shall be established upon the recordation of this Declaration and shall be enforceable as equitable servitudes and covenants running with the land for the use and benefit of the Owners and their Lots.

8.5.2 Creation of Easements. The easements and rights specified in this Article are hereby created and shall exist whether or not they are also set forth in individual grant deeds to Lots.

8.5.3 Nature of Easements. All easements granted and reserved are nonexclusive.

8.5.4 Additional Easements. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of the Property.

8.5.5 Annexation of Additional Property. Upon the recordation of a Declaration of Annexation, the Lots and the Owners of Lots in the annexed Phase shall have all of the rights and easements specified in this Article and the Lots and the Owners of Lots in the Property prior to Annexation shall have all of the easements specified in this Article as though the annexed Phase were initially part of the Property.

ARTICLE NINE MAINTENANCE AND IMPROVEMENTS

9.1 Maintenance by Association.

9.1.1 Common Area Improvements. The Association shall maintain, repair and, when necessary, replace and reconstruct all Common Area Improvements originally

installed by Declarant or later installed, including without limitation landscaping, open space (including all slope banks), drainage facilities, irrigation systems, and recreational facilities in accordance with the Lake Management Plan. The Association shall hire necessary personnel and services and do, or cause to be done, such other things as are necessary to provide for the maintenance and repair of the Common Area for the benefit of all the Owners.

9.1.2 Common Area Landscaping; Fences. After the initial installation of landscaping by Declarant and maintenance thereof for one year, the Association shall maintain all shrubs, trees, grass, plantings and landscaping of every kind within the Common Area or on the boundary between a Lot and the Common Area neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. With respect to Common Area that has been offered for dedication to the County, City or some other public or quasi-public recipient agency, the Association shall maintain any dedicated landscaped buffers or other portions of the Common Area until the offer of dedication is accepted by the recipient agency. If any fence or wall lies on the boundary between a Lot and the Common Area, the Association shall be responsible for the repair, replacement and maintenance of that portion which faces the Common Area. If repair or replacement is required, the Association shall perform the same and shall be entitled to recover 1/2 the cost thereof from the benefited Owners by Reimbursement Assessment. With respect to any fence or wall that lies on the boundary between two Lots, each Owner shall maintain that portion of the fence or wall which faces that Owner's Residence, and shall maintain all landscaping on that side of the fence or wall. Notwithstanding the foregoing, Declarant shall maintain any landscaping installed on any Lot until the Lot is sold.

9.1.3 No Association Obligation. Notwithstanding the preceding, the obligation of the Association shall not:

(a) extend to repairs or replacements required or caused by the willful or negligent act of any Owner or Owner's Parties unless such repairs and replacements are covered by insurance carried by the Association, and then only to the extent of such insurance coverage; or

(b) include the duty to repair, replace or restore public or quasi-public utility installations which are owned or operated by a public or quasi-public utility or similar entity that customarily repairs, replaces or restores such installations.

The repair and replacement described in clause (a) above shall be the responsibility of the Owner of the affected Lot or the Owner to whom the willful or negligent act is attributed, as the case may be. The Association may, at its option, perform such repair or replacement, and shall be entitled to recover all costs incurred in connection therewith from the responsible Owner as a Reimbursement Assessment in accordance with Section 5.4. The activities referred to in clause (b) above shall be by the utility or service provider.

9.1.4 Landscape and Lighting Districts. The Property will be within Landscape and Lighting District No. 14 ("LLD"). The LLD will maintain and install landscaping and public lighting facilities, including without limitation traffic signals, along major arterial roadways, property surrounding the Property, public medians, parkways, public open space and roadsides other than arterial medians and arterial roadsides for the benefit of all

the Owners and the Association. The LLD is an assessment district authorized by State law. The City administers the LLD and imposes assessments to finance its activities. These assessments will appear on the Owners' property tax bills and will be applied to the LLD. The amount of the assessment, the specific areas to be maintained by the LLD and the activities to be conducted by the LLD shall be as set forth in the current Engineer's Report for the LLD, which report is available from the City's Public Works Department. In the event that the LLD ceases for any reason to perform any of the aforementioned responsibilities and the responsibilities are not assumed by the County, the City or another Maintenance District or public or quasi-public entity, the Association shall perform the responsibilities that are not being performed, and in such case shall have the right, notwithstanding any other provision of the Governing Documents but only to the extent permitted by law, to increase the Assessment by whatever amount may be necessary to finance the cost of performing the new responsibilities; provided, however, that the amount of the increase in Assessments against each Lot shall not exceed the assessment the Owner was previously paying to the County, City or other public or quasi-public agency to fund the LLD's activities assumed by the Association. The amount of the assessment, the specific areas to be maintained by the LLD and the activities to be conducted by the LLD shall be as set forth in the current Engineer's Report for the LLD, which report is available from the City's Public Works Department.

9.2 Maintenance by Owners.

9.2.1 Mandatory Maintenance. Subject to the requirements of Article 10, each Lot Owner, at its sole cost and expense, shall maintain the interior and exterior of its Residence and all fixtures, fences, roofs, walls, walkways, driveways, utility laterals or conduits serving only its Residence (and not repaired or maintained by the utility company), appliances or appurtenances therein or thereto; and all other portions of the Owner's Lot or Residence not required by this Declaration to be maintained by the Association, in good condition and repair and so that the same does not deteriorate so as to be dangerous, or to present a hazard or nuisance to or to diminish the value and attractiveness of, any other Lot or the Property. With respect to a Residence, the Owner's maintenance obligations shall include without limitation the duty to promptly repair and replace all broken glass, including windows, maintain in good, attractive, safe and sanitary condition and repair and replace if necessary all floors, walls, roofs, ceilings, window frames, door frames and doors. With respect to other portions of each Owner's Lot, said obligation shall include without limitation the duty to promptly repair and replace all damaged Improvements, to maintain all Improvements in good, attractive, safe and sanitary condition, and to maintain and cultivate all landscaping, installed or placed thereon or therein by the Owner or occupant of such Lot and to keep such area free from rubbish, litter and weeds. No Owner shall allow or permit open portions of its Lot to remain unlandscaped for more than six months from the date of the close of escrow for its purchase of the Lot. Exterior repainting and replacements of exterior doors, exterior materials and treatment, door frames, windows and window frames by an Owner, unless of the same colors, design and materials as established by Declarant, shall be subject to the approval of the Design Review Committee. Owners shall install, if not installed by Declarant, and maintain landscaping and any necessary measures for slope stability to prevent mass soil movement and erosion on their Lots and shall promptly repair any slides or other earth movements in accordance with plans and specifications prepared by licensed engineers and approved by the Design Review Committee.

9.2.2 Subassociation Lots. The maintenance responsibilities of Owners of Lots located in a Subassociation shall be as set forth in the applicable Subassociation Governing Documents.

9.3 Damage to Residences; Reconstruction. If all or any portion of any Lot or Residence is damaged or destroyed by fire or other casualty, the Owner of such Lot shall rebuild, repair or reconstruct the Lot and the Residence thereon in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the Design Review Committee. The Owner of any damaged Lot or Residence shall proceed with all due diligence, and the Owner shall cause reconstruction to commence within six months after the damage occurs and to be completed within 12 months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. A transferee of the Lot which is damaged or upon which is located a damaged Residence shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, no such transferee may be required to commence or complete such reconstruction in less than 30 days from the date such transferee acquired title to the Lot.

9.4 Right of Maintenance and Entry.

9.4.1 By Association. If an Owner fails to perform maintenance and/or repair which that Owner is obligated to perform pursuant to this Declaration, and if the Association determines, after giving notice and an opportunity to be heard as provided in Section 14.2, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of the Property, the Association may cause such maintenance and/or repair to be performed and charge the costs of such maintenance and/or repair to the Owner as a Reimbursement Assessment. In order to effectuate the provisions of this Declaration, the Association (through its duly authorized agents or employees) may enter any Lot or Improvements whenever entry is necessary for the performance of any maintenance or construction which the Association is authorized to undertake. Entry within a Lot shall be made during regular business hours, with as little inconvenience to an Owner as is practicable under the circumstances, and only after reasonable advance written notice, which except for emergencies shall be not less than 48 hours, except in the case of an emergency, and then as reasonably necessary. Such entry shall not be deemed a trespass and the Owner shall not be entitled to any compensation for such entry.

9.5 Capital Improvements.

9.5.1 Petition; Board Approval; Owner Approval. A majority of the Owners may from time to time petition the Board in writing for the construction, installation or acquisition of a capital improvement on the Common Area. Such petition shall be in such form and shall contain such information as the Board may require, including without limitation preliminary plans and cost estimates. Alternatively, the Association through the Board may from time to time on its own motion move for the construction, installation or acquisition of a capital improvement. Such motion shall be treated in the same manner as if it were a petition submitted by the Owners, and this Section 9.5 shall apply to both petitions and motions.

9.5.2 Process. The Board may approve the petition if it determines that the proposed capital improvement is desirable for the beneficial use and enjoyment of the Common Area or the Owners, is economically feasible, is in conformance with applicable zoning and has received all required governmental approvals. Upon the approval of a petition, the Board shall obtain firm bids from responsible, licensed contractors for the total cost of constructing, installing or acquiring the proposed capital improvement. The lowest responsible bid or bids shall in the aggregate be deemed the estimated total cost of the capital improvement. The Board may, if it elects to go forward after receipt of the bid(s), levy an assessment against the Owners to cover all costs to the Association in connection with the proposed capital improvements. After levying such assessment, the Board shall, at such time and upon such terms and conditions as the Board may deem appropriate (but not at a cost materially exceeding the estimated total cost), execute or contract for the construction, installation or acquisition of the proposed capital improvement.

9.5.3 Capital Improvement Assessment as Special Assessment. An assessment for capital improvements arising under Section 9.5 shall be deemed a Special Assessment under Section 5.3 shall be subject to the limitations set forth in that Section. However, if any assessment for capital improvements shall, in itself, exceed five percent of the budgeted gross expenses of the Association for the fiscal year, or when added to all prior Special Assessments for the fiscal year cause the total thereof to exceed five percent of the budgeted gross expenses for such fiscal year, then such assessment may not be levied unless it is approved by the vote or written consent of a majority of the voting power of the Members other than the Declarant as provided in Section 5.7.

9.5.4 Expenses for Property Not Approved. If for any reason the construction or acquisition of the proposed capital improvement is not approved by the Board (or the Owners, if required), all expenses incurred by the Association with respect to the proposed capital improvement shall be paid proportionately by the petitioning Owners and the Board may levy a Reimbursement Assessment against said Owners for the purpose of paying such expenses. If the proposed project was initiated by the Board, such expenses shall be paid by the Association.

ARTICLE TEN DESIGN REVIEW

10.1 Applicability. Except as expressly provided otherwise elsewhere in this Declaration, no Owner may make any Alterations to any Lot without first obtaining the approval of the Design Review Committee in accordance with the provisions of this Article 10. The provisions of this Declaration requiring design approval shall not apply to: (a) alterations of Common Area Improvements by the Association; (b) the original construction of any Improvements on a Lot by Declarant or any of its agents, contractors or employees; or (c) prior to the first conveyance of a Lot in the applicable Phase to an Owner. The preceding sentence may not be amended without the consent of Declarant until all of the Lots in the Project owned by Declarant have been conveyed to Owners other than Declarant.

10.2 Reservation to Declarant. Notwithstanding the power of the Board to appoint committees, Declarant hereby reserves to itself the right to appoint a Design Review Committee in accordance with the provisions of this Article 10 and Section 8.3 of the Bylaws. When the

Design Review Committee no longer contains any member appointed by Declarant, the Board may dissolve the Design Review Committee and undertake the Design Review Committee's responsibilities if it so elects.

10.3 Members. The Design Review Committee shall consist of a chairman and three additional members. Persons appointed to the Design Review Committee need not be Members of the Association. All members shall serve until the expiration of the term for which they were appointed, if specified by the Board, or until they resign or are replaced. When all of the Additional Property has been annexed to the Project and all of the Lots have been conveyed by Declarant to a homebuyer, the term of any remaining members appointed by Declarant shall terminate and replacement members shall be appointed by the Board. Declarant may appoint all of the original members of the Design Review Committee and all replacements until the second anniversary of the conveyance of title to the first Lot in the Project to an Owner other than a Declarant. After that date, the Board shall have the power to appoint one member of the Design Review Committee and Declarant may appoint the remainder of the members of the Design Review Committee until the conveyance of 90% of all Lots or the 5th anniversary of the conveyance of title to the first Lot in the Project to an Owner, whichever first occurs. The Board may appoint a replacement for any member of the Design Review Committee originally appointed by the Board who resigns, is removed by the Board or otherwise fails to act. Declarant may appoint a replacement for any member of the Design Review Committee originally appointed by Declarant who resigns or otherwise fails to act, unless such member resigns in order to enable the Board to appoint a member as required by this Article.

10.4 Duties and Powers.

10.4.1 Duties. The Design Review Committee shall review and approve, disapprove or conditionally approve all plans, submittals, applications and requests made or tendered to it by Owners or their agents in connection with any proposed Alterations. In connection therewith, the Design Review Committee may investigate and consider the architecture, design, layout, landscaping, energy conservation measures, water conservation measures, fence detail, and other features of the proposed Alterations.

10.4.2 Design Guidelines. The Design Review Committee may from time to time in its sole discretion adopt architectural rules, regulations and guidelines for the Project ("Design Guidelines"). The Design Guidelines also may impose additional specific requirements on Lots if those requirements are reasonable in light of specific Lot topography, visibility or other factors. The Design Guidelines shall be effective when they are adopted by the Design Review Committee, which shall interpret and implement the provisions of this Declaration by setting forth the standards and procedures for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, landscaping, fences and similar features which may be used in the Project; provided, however, that the Design Guidelines shall be consistent with the minimum standards established by this Declaration. The Design Guidelines may include a schedule of fees for processing submittals (which shall not exceed the amount reasonably necessary to defray all costs incurred by the Design Review Committee in processing the submittals) and establish the time and manner in which such fees shall be paid. The Design Guidelines shall constitute a part of the Rules and Regulations.

10.4.3 Powers. The Design Review Committee may adopt rules and regulations for the transaction of business, scheduling of meetings, conduct of meetings and related matters. The Design Review Committee also may adopt criteria, consistent with the purpose and intent of this Declaration, to be used in making its determination to approve, disapprove or conditionally approve any matter submitted to it for decision. With the consent of the Board, the Design Review Committee may hire and pay consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Design Review Committee in performing its duties.

10.5 Application for Approval of Improvements. Any Owner (except Declarant and its agents) who wants to make any Alteration shall notify the Design Review Committee in writing of the nature of the proposed Alteration and shall furnish such information as may be required by the Design Guidelines or reasonably requested by the Design Review Committee. The Design Review Committee may require an application to include site plans, diagrams, photographs, sample materials or other presentation material as may be necessary for complete review and consideration of the proposed Alteration. All applications shall be submitted in writing, shall conform to the requirements set forth in the Design Guidelines and shall be accompanied by any required fee. The approval process may also be divided into preliminary and final approvals if so provided in the Design Guidelines.

10.6 Basis for Approval of Improvements. The Design Review Committee may approve a proposed Alteration only if the Design Review Committee finds that:

(a) The plans and specifications for the proposed Alteration conform to this Declaration and to the applicable Design Guidelines in effect at the time the application was submitted;

(b) General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and similar elements, have been incorporated in order to ensure the compatibility of the proposed Alteration with its design concept and the character of adjacent buildings;

(c) General site considerations, including site layout, open space and topography, orientation and locations of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, and similar elements have been designed to provide a desirable environment and one which maximizes the view of the surrounding Residences, considering the location of trees, vegetation and other aesthetic and environmental factors;

(d) General landscape considerations, including the location, type, size, color, texture and coverage of plant materials, provision for irrigation, maintenance and protection of landscaped areas and similar elements, have been considered to ensure visual relief, complement buildings and structures and provide an attractive environment for the enjoyment of the Owners in general and the enhancement of property values in the Project generally; and

(e) The percentage area of the Lot to be cleared or graded and the percentage area of the Lot to be covered by the Residence or other Improvements will not cause

excessive drainage or surface water run-off due to the topography, percolation rate of the soil, soil types and conditions, vegetation cover and other environmental factors.

If the Design Review Committee makes a negative finding on one or more of the items set forth in this Section 10.6, it shall disapprove the proposed Alteration, or condition its approval of the proposed Alteration appropriately so as to allow such findings to be made.

10.7 Firm of Approvals and Denials. All approvals and denials shall be in writing. Any denial of an application shall state the reasons therefor in reasonable detail. Any application which has not been rejected in writing within 90 days from the date of submission shall be deemed approved. If any Alteration is made without first seeking and obtaining the approval of the Design Review Committee, it shall be deemed that the Owner of the affected Lot applied for such approval and was timely and properly denied.

10.8 Arbitration. If an Owner seeking approval pursuant to this Article 10 disputes the decision of the Design Review Committee, it may appeal the decision to the Board. The Board, within 30 days after the date the appeal is filed, shall convene a special meeting of the Board and at that meeting shall determine to either: (a) uphold the decision of the Design Review Committee; (b) reverse the decision of the Design Review Committee; or (c) reverse the decision of the Design Review Committee subject to the Owner's compliance with specified conditions. If the Owner disputes the decision of the Board, the matter may, at the Owner's election, be submitted to dispute resolution as provided in the Bylaws. At the time the Owner notifies the Board of its appeal of the decision of the Design Review Committee, it shall deliver to the Board copies of all materials used by the Owner in its submission to the Design Review Committee.

10.9 No Liability for Architectural Review. Neither the Declarant, the Design Review Committee nor the members or designated representatives thereof shall be liable for damages to anyone submitting plans or specifications to them for approval, or to any owner of property affected by this Declaration by reason of any mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or failure to approve or disapprove, any such application, or for any defect, whether in design or construction, in any approved Alterations. Neither the Declarant, the Design Review Committee nor any member thereof shall be responsible for reviewing or approving any plans with respect to the adequacy of engineering design in any aspect whatsoever. Every Person who submits plans or specifications to the Design Review Committee for approval agrees, by submission of such plans and specifications, and every Owner and Owner's Parties agrees that it will not bring any action, suit or claim against Declarant, the Design Review Committee or any of the members or designated representatives thereof with respect to any matters for which such persons or entities are relieved of liability pursuant to this Section. Each Owner, in addition to satisfying the requirements set forth in this Declaration, shall determine and satisfy the requirements imposed by the County, the City and any other public agency with jurisdiction in connection with its Alterations. Approval by the Committee shall not constitute a representation that the proposed Alteration will be approved by the City or any other public agency with jurisdiction, or that it conforms to the zoning, building or other requirements of any of them.

ARTICLE ELEVEN DISPUTE RESOLUTION

11.1 Resolution of Disputes. All claims, disputes, controversies or other matters at issue between Declarant and any Owner that arise out of or are in any way related to the purchase, sale, condition, design, materials or construction of the Project, any Lot, any Residence or any other Improvements constructed by or at the instance of Declarant in connection with the Project (collectively, the "Home") or any other aspect of the relationship between Declarant and any Owner, whether based in contract or in tort (collectively, "Disputes"), shall be resolved through the procedures established in this Article 11. For purposes of this Article 11: (a) "Owners" shall mean and include any and all persons or entities who acquire any interest in a Home or a Dispute at any time during the period this Declaration is in effect; and (b) "Declarant" shall mean and include Declarant, its directors, officers, employees, partners, subsidiaries and affiliated companies, brokers, contractors and agents, and the directors, officers, employees, partners and agents of any of them.

11.2 Negotiations. Declarant and the Owner first shall endeavor to resolve any Dispute promptly and informally through good faith negotiations between the parties. Either party may initiate negotiations by writing a letter to the other describing the nature of the matter, and a proposed resolution of the matter. The recipient of the letter shall respond in writing within 15 days to the other party's description of the matter and proposed resolution. If correspondence does not resolve the Dispute, the parties, or their representatives (who shall have authority to resolve the matter and shall not be attorneys actively practicing law), shall meet and personally confer, within 15 days after either party requests a meeting, in a bona fide attempt to resolve the matter. The meeting(s) shall be held at a mutually acceptable location. If the Owner indicates that the matter involves or may involve a problem in the condition, design, materials or construction of its Home, the Owner shall provide Declarant with a detailed written description of the specific nature and scope of the problem and all relevant facts and circumstances (which, if Owner's proposed resolution involves a repair or restoration, shall include, if available, the proposed method and estimated cost of the repair or restoration) and Declarant (and its consultants, contractors and other experts) shall have the right, before meeting with the Owner, to inspect and independently evaluate the condition of the Home. If Declarant concludes, after reviewing the Owner's description and inspecting the Home, that a condition exists that it would be appropriate or desirable for Declarant to address, then Declarant shall have the right, after meeting with the Owner to discuss the various alternative resolutions, including the Owner's proposed resolution, to endeavor to cure the condition in the manner (and within the time frame) Declarant deems most appropriate. If Declarant elects to attempt to cure the condition, the Owner shall provide Declarant with such access to the Home, during usual working hours, as Declarant may reasonably require in connection with such cure. Any cure by Declarant shall be commenced within 60 days after the first meeting between the parties, and thereafter shall be diligently prosecuted to completion.

11.3 Mediation. In the event a Dispute is not resolved: (a) by Declarant's cure, if Declarant elects to cure; or (b) within 60 days (or any mutually agreed extension of time) after the first meeting between the parties if Declarant does not elect to cure, the matter shall be referred for mediation to the nearest regional office of Judicial Arbitration & Mediation Service Inc. ("JAMS"), or any successor or if none, to the American Arbitration Association ("AAA") or

any successor thereto. If JAMS ceases to exist, all references, to JAMS shall be deemed references to AAA or the other substitute dispute resolution service. The mediation proceeding is a series of informal, nonbinding joint conferences and separate caucuses with an impartial third party who will seek to guide the parties to a consensual resolution of the Dispute. The mediator shall be selected by mutual agreement of the parties from a JAMS-provided list of then-available retired judges and justices with significant exposure to residential real estate and construction matters. If the parties are unable to agree on the selection of the mediator: (a) JAMS will circulate a list with the names and resumes of three appropriately qualified and available mediators; (b) each party shall strike one name; and (c) the person remaining on the list shall be the mediator. The mediation proceeding shall be commenced within 30 days (or any mutually agreed longer period) after referral, and shall continue until the matter is resolved or the mediator makes a finding that there is no possibility of resolving the matter without resort to judicial reference, as described in Section 11.4 below. The parties may elect, at their own expense, to be represented in the mediation by their attorneys. All costs of the mediation (except attorneys' fees, if any) shall be borne equally by the parties. Each party shall bear its own attorneys' fees and other costs incurred in connection with the mediation.

Any voluntary settlement reached as a result of a mediation proceeding shall be reduced to writing, and shall be enforceable in the same manner as any other binding agreement between the parties. If either party so elects, the settlement agreement shall be recorded.

11.4 Judicial Reference.

11.4.1 Any Disputes which have not been resolved through mediation shall be heard and resolved by judicial reference in accordance with the provisions of California Code of Civil Procedure Section 638 *et seq.* and/or any amendments or successor statutes. The reference proceeding is a prompt, cost efficient and less formal trial, and the decision in such proceeding has the same legal effect as a judgment of the Superior Court. The reference proceeding shall be initiated by either or both parties by motion to the Superior Court of the County, and shall be conducted by a referee (the "Referee") appointed by a judge of that court. The Referee shall be an attorney or retired judge having at least 15 years' experience, a significant amount of which shall have involved the law governing residential real estate and construction matters. The entire Dispute shall be resolved in the judicial reference if feasible, and the judge and Referee implementing this Declaration shall order the joinder of such additional parties (such as contractors or brokers) as may be amenable to achieve this objective.

11.4.2 Within 90 days after the proceeding is initiated, the party initiating the proceeding shall submit to the Referee and all other parties: (i) a written brief outlining its position on all issues; (ii) a list of all witnesses it proposes to present, and a summary of their proposed testimony; and (iii) copies of all written reports and other relevant documentary evidence. Within 90 days after the receipt of such submittal, all other parties shall make the same submittals with respect to their claims and defenses. If the Owner makes any claim or allegation involving purported construction defect(s), the Owner's submittal shall include a complete and detailed statement describing: (A) the nature and scope of the alleged defect(s); (B) the Owner's position regarding the appropriate method of repair or restoration, the estimated cost of the repair or restoration and the manner in which the estimate was calculated; and (C) any repairs actually made to date, including the name of the person performing the repairs and a

breakdown of all repair costs. Full disclosure shall be made prior to the judicial reference proceeding, and any information which all parties have not had a prior opportunity to review and respond to shall be inadmissible in the judicial reference hearing. Each party shall have the right to depose the other party's expert witnesses, perform inspections and destructive tests (provided the property subject to testing thereafter is restored to its pre-test condition) and take two other depositions of its choice without further order of the Referee. Otherwise, neither party shall have the right to conduct discovery in connection with the judicial reference proceeding unless authorized by the Referee for good cause.

11.4.3 Regardless of the outcome of the reference proceeding: (i) all costs of the judicial reference shall be borne equally by the parties; and (ii) each party shall bear its own attorneys', consultants' and other fees and costs. All costs not covered by the preceding sentence shall be borne equally by all parties.

11.5 Enforceability; Privilege.

11.5.1 The requirements set forth in Sections 11.2, 11.3 and 11.4, respectively, regarding negotiations, mediation and judicial reference shall be specifically enforceable.

11.5.2 The negotiations and mediation proceeding shall be subject to California Evidence Code sections 1115 *et seq.* and 1152 (or any amendment or successor thereto), which restrict the use of evidence from the negotiations or mediation in any subsequent proceeding.

Further, the presentation of evidence from any expert or consultant shall not waive the attorney-client privilege, the work product doctrine or any other privilege or exclusionary rule a party may seek to assert in any subsequent judicial reference or other proceeding. The fact that any party has discussed or undertaken a proposed cure shall be deemed and construed only as an action in furtherance of settlement and Dispute resolution, and not as an admission or other indication of liability.

11.6 Joinder of Relevant Parties. At any time during the course of resolving a Dispute, Owner and Declarant each shall have the right, but not the obligation, to seek to join as parties to the dispute resolution procedure any other person or entity as to whom the specific Dispute is relevant. The parties shall have a reasonable period of time in which to seek such joinder; provided, however, that: (a) any such joinder shall be diligently sought; and (b) any inability to join a related or relevant party shall have no effect on the proceedings. For example, if an Owner has a claim arising out of the workmanship of the roof and the Owner's claim could give rise to a claim by Declarant against the roofing contractor: (i) Declarant shall have the right to seek, in a diligent manner, to join the roofing contractor in any or all of the negotiation, mediation and arbitration proceedings; but (ii) Declarant's inability to join the roofing contractor in any proceeding shall not limit or otherwise affect Declarant's obligation to participate in any such proceeding.

11.7 Exclusive Remedy; Statute of Limitations. The dispute resolution procedure set forth herein shall be the exclusive means of resolving all Disputes which may arise between Declarant and any Owner. This dispute resolution procedure shall not in any way toll, extend, shorten or otherwise effect any applicable statutes of limitation relating to any Dispute.

11.8 Actual Damages Only. Declarant and all Owners shall be entitled to recover only their actual damages (which in the case of a construction or design defect shall be limited to the actual reasonable cost of repair or cure), and no party shall be entitled to recover any consequential, punitive or other like kind of damages that are not actual damages.

**ARTICLE TWELVE
DAMAGE AND RECONSTRUCTION OF COMMON AREA; DISPOSITION OF
INSURANCE PROCEEDS; CONDEMNATION**

12.1 Association Obligation to Restore. If the Common Area or equipment, or other personal property owned, insured or maintained by the Association is damaged or destroyed by fire or other casualty ("Damaged Property"), the Association shall restore the Damaged Property pursuant to the provisions of this Article 12. The term "restore" or "restoration," for purposes of this Article 12, shall mean repairing, rebuilding, reconstructing or replacing the Damaged Property to the same condition and appearance in which it existed prior to the casualty. If the Damaged Property is insured by the Association, the Association shall proceed with the filing and adjustment of all claims arising under the existing insurance policies.

12.2 Bids. Whenever restoration is to be performed pursuant to Section 12.1, the Board shall obtain such bids from responsible licensed contractors as the Board deems reasonable; and the Board, on behalf of the Association, shall contract with the contractor whose bid the Board decides is most beneficial to the Association. Prior to commencing the restoration, the contractor shall provide a completion bond naming the Association and each Owner as beneficiaries.

12.3 Proceeds for the Restoration Work. The cost of restoring the Damaged Property shall be funded from the following sources in the priority described below (except as expressly provided in Section 12.4, no funds shall be expended unless all funds necessary to restore the entire Damaged Property are available):

12.3.1 Insurance Proceeds. The first priority shall be any insurance proceeds paid or to be paid to the Association under existing insurance policies.

12.3.2 Reserve Account. If the insurance proceeds are insufficient to fully restore the Damaged Property, the second priority shall be all reserve account funds designated or available for the restoration of the Damaged Property.

12.3.3 Special Assessment Without Vote. If the insurance proceeds and the reserve account funds are insufficient to fully restore the Damaged Property, the third priority shall be funds raised by a Special Assessment against all Owners levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in Section 5.7.

12.3.4 Special Assessment With Vote. If the insurance proceeds, the reserve account funds and funds raised by a Special Assessment without a vote are insufficient to fully restore the Damaged Property, the fourth priority shall be any funds raised by a Special Assessment against Owners levied by the Board pursuant to a vote of the Members pursuant to Section 5.7. Accordingly, if the total funds available to restore the Damaged Property pursuant

to the first three priorities described above are insufficient to restore the Damaged Property, then a special meeting of the Members shall be called for the purpose of voting whether to impose an additional Special Assessment and deciding upon the amount thereof. The Board then shall contract for the restoration of the Common Area described above.

12.4 Alternative Reconstruction. If the funds provided for the restoration work pursuant to Section 12.3 are not sufficient to fully restore the Damaged Property, then the Board shall consider and propose plans for the partial restoration of the Damaged Property, making use of whatever funds are available ("Alternative Reconstruction"). The Board shall cause the Alternative Reconstruction to be performed for any portion of the Common Area. Proposals for Alternative Construction that the Board does not reasonably consider to be essential to the continued operation of the Community shall be presented to the Members and must be approved by a majority of the total voting power of the Members other than Declarant. If the proposal is approved, the Board shall cause the approved Alternative Reconstruction to be performed, otherwise, any insurance proceeds received with respect to the Damaged Property shall be distributed to the Owners in equal shares with respect to each Lot.

12.5 Referendum on Restoration. Upon the petition of 10% of the total voting power of the Members other than Declarant or upon approval of the Board, the Association shall hold a referendum to decide whether the Damaged Property should be restored. Upon approval of 75% of the total voting power of Members other than Declarant, the Damaged Property need not be restored, and any insurance proceeds remaining after any necessary clean-up work shall be distributed to the Owners of the Lots in equal shares with respect to each Lot. Alternatively, pursuant to the procedure described in Section 12.4, the Members may choose to restore the Damaged Property in a manner different than originally constructed.

12.6 Damage by Owner. Each Owner shall be liable to the Association for any damage to the Damaged Property where the restoration cost is not fully reimbursed to the Association by insurance if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper use by such Owner or its Owner's Parties. After Notice and Hearing Requirements in respect of an Owner have been satisfied, the cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Reimbursement Assessment to such Owner and may be enforced as provided in Section 5.9. However, the Board reserves the right to determine whether any claim shall be made upon insurance maintained by the Association, and the Board may, after Notice and Hearing Requirements in respect of an Owner have been satisfied, levy a Special Assessment equal to the deductible or the increase, if any, in insurance premiums directly attributable to the damage caused by the Owner or its Owner's Parties. In case of joint ownership of a Lot, the Owners' liability to the Association shall be joint and several.

12.7 Condemnation. The Board shall represent the Owners in any condemnation proceedings, negotiations, settlements or agreements affecting any portion of the Common Area. If an action for condemnation of all or a portion of the Common Area is proposed or threatened by any government agency having the right of eminent domain, then, upon the unanimous approval of all of the Owners and all Institutional Mortgagees, the Common Area, or a portion of it, may be sold and conveyed to the condemning authority by the Association for a price deemed to be fair and equitable by the Board. Otherwise, the court with jurisdiction over the

condemnation proceeding shall determine the condemnation award. Any condemnation award received by the Association pursuant to this Section 12.7 shall be deposited in the operating account and thereafter distributed first to correct or address any severance or other like damages, second to the replacement or provision of similar facilities and amenities if feasible and, in the Board's discretion, desirable, and last to all Owners in equal shares with respect to each Lot.

ARTICLE THIRTEEN MORTGAGEE PROTECTION

13.1 Mortgaging of Lots. Any Owner may encumber its Lot with a Mortgage. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any First Mortgage that encumbers all or a portion of the Property or any Lot, 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 First Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. All taxes, assessments and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Lots and not to the Property as a whole.

13.2 Amendments of a Material Nature. The prior written consent of 51% of the Eligible Holders (based upon one vote for each Mortgage held) and 67% of the Total Voting Power of the members excluding the Declarant (based upon one vote for each Lot owned) shall be required to effect any material amendment to this Declaration, to the Articles or to the Bylaws. As used in this Section, the term "any material amendment" means amendments to provisions of such documents which establish, provide for or govern the following subjects:

- (a) voting rights;
- (b) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- (c) reductions in reserves for maintenance, repair, and replacement of Common Areas;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the general or limited Common Areas or rights to their use;
- (f) redefinition of any unit boundaries;
- (g) convertibility of units into common areas or vice versa;
- (h) expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Property;
- (i) hazard or fidelity insurance requirements;
- (j) imposition of any restrictions on the leasing of units;

(k) imposition of any restrictions on an Owner's right to sell or transfer his or her unit;

(l) a decision by the Association that consists of 50 or more units to establish self-management if professional management had been required previously by the Governing Documents or by an Eligible Holder;

(m) restoration or repair of the Property (after damage or partial condemnation) in a manner other than that specified in the Governing Documents; or

(n) any provisions that expressly benefit mortgage holders, insurers or guarantors.

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

13.3 Right to Examine Books and Records. First Mortgagees, or the holder or guarantor of any first mortgage, may examine the books and records of the Association and may require the submission of financial data concerning the Association, including annual audit reports and operating statements that are furnished to the Owners. Any Owner, at the expense of such Owner, or, if no annual audit is conducted, a First Mortgagee, at its expense, may request at any time an independent audit of the Association. Any First Mortgagee, upon written request to the Association, shall be provided with the Association's audited annual financial statements within 120 days after the end of the Association's fiscal year.

13.4 Distribution of Insurance and Condemnation Proceeds. No Owner or other party shall have priority over any right of First Mortgagees pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Common Area. Any provisions to the contrary in this Declaration or in the Bylaws or other documents relating to the Property are to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall, at the request of a First Mortgagee contain loss payable clauses acceptable to the affected First Mortgagees naming the First Mortgagees, as their interests may appear.

13.5 Notice to Mortgagees. Upon written request to the Association by a First Mortgagee which includes the address of the Lot upon which the First Mortgagee has (or insures or guarantees) the Mortgage, the Association shall give each First Mortgagee of record timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Property or any Building or Lot securing its Mortgage;

(b) any delinquency in the payment of assessments or charges owed by an Owner or any Building or Lot securing its Mortgage;

(c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of First Mortgagees as specified by Section 13.2.

13.6 Payments by Mortgagees. Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area improvements or other insured property of the Association and, upon making any such payments, such Mortgagees shall be owed immediate reimbursement therefor from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon the request of any Mortgagee the Association shall execute and deliver to such Mortgagee a separate written agreement embodying the provisions of this Section 13.6.

13.7 Effect of Breach. Except as such breach shall cause a foreclosure of a lien for assessments and charges which is prior in right to the lien of a Mortgage other than a First Mortgage, no breach of any provision of this Declaration shall invalidate the lien of any First Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, deed in lieu of foreclosure or assignment in lieu of foreclosure or otherwise.

13.8 Foreclosure. If any Lot subject to a monetary lien created by any provision of this Declaration shall be subject to a First Mortgage Lien: (a) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair such First Mortgage Lien; and (b) the foreclosure of said First Mortgage Lien or sale under a power of sale included in such First Mortgage (such events being hereinafter referred to as "events of foreclosure") shall not operate to affect or impair the encumbrance of this Declaration, except that any persons who obtain an interest through any of the events of foreclosure shall take title free of the lien for all assessments and charges that have accrued up to the time of any of the events of foreclosure, but subject to any lien for all Assessments, whether Regular or Special, and charges that accrue subsequent to the events of foreclosure. For purposes hereof, the obligation for any installment of a previously levied assessment which has not become payable as of the date of foreclosure shall be deemed to accrue on the date such installment becomes payable. If the events of foreclosure are with respect to a Mortgage other than a First Mortgage, the liability of the Mortgagee with respect to any assessments and charges arising prior to the events of foreclosure and the effects of a foreclosure of the lien for assessments and charges on such Mortgage shall be determined by the relative dates on which the lien of the Mortgage and the lien for such assessments became duly perfected.

Nothing in this Section 13.8 shall be construed to release any Owner from its personal obligation to pay for any assessment or charge levied pursuant to this Declaration.

13.9 Non-Curable Breach. Any Mortgagee who acquires title to a Lot by foreclosure or by deed-in-lieu of foreclosure or assignment-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

13.10 Loan to Facilitate Resale of Lot. Any First Mortgage given to secure a loan to facilitate the resale of a Lot after acquisition by foreclosure or by a deed in lieu of foreclosure or by an assignment in lieu of foreclosure shall be deemed to be a loan made in good faith and for value, and shall be entitled to all of the rights and protections of this Article 13.

13.11 Right to Furnish Information. Each Owner consents and agrees that any Mortgagee may furnish information to the Board concerning the status of any Mortgage.

13.12 Inapplicability of Right of First Refusal to Mortgagee. No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey an Owner's Lot shall be granted to the Association without the written consent of any Mortgagee of that Lot. Any right of first refusal or option to purchase a Lot that may be granted to the Association (or other person, firm or entity) shall not apply to any conveyance or transfer of title to such Lot whether voluntary or involuntary, to a Mortgagee which acquires title to or ownership of the Lot pursuant to the remedies provided in its Mortgage, deed-in-lieu of foreclosure or assignment-in-lieu of foreclosure. Further, no such right shall impair the rights of a First Mortgagee to:

- (a) foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage; or
- (b) accept a deed-in-lieu of foreclosure or assignment-in-lieu of foreclosure in the event of default by a Mortgagor; or
- (c) sell or lease a Lot acquired by the Mortgagee.

13.13 Contracts with Declarant; Contracts Prior to Conversion. Any professional management agreement or any agreement between the Association and Declarant pursuant to which Declarant agrees to provide services shall have a maximum term of three years and shall provide for termination by either party without cause or penalty upon 90 days written notice. Prior to the conversion of Class B Membership to Class A Membership pursuant to Section 4.3, any contract or lease entered into by the Association shall include a right of termination exercisable by the Association without penalty at any time after such conversion, upon 90 days notice.

13.14 FNMA. If any Mortgage obtained by an Owner is sold or transferred to the Federal National Mortgage Association, the Eligible Holders shall be afforded the following rights so long as at least one Mortgage is owned by the Federal National Mortgage Association, if not waived in writing by the Federal National Mortgage Association:

13.14.1 Restoration or Repair. Any restoration or repair of the Common Area or any Building which contains multiple residential units, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by Eligible Holders who represent at least 51% of the votes of the Lots that are subject to mortgages held by Eligible Holders.

13.14.2 Termination After Substantial Destruction. Any election to terminate the legal status of the Property as a planned development after substantial destruction or a substantial taking in condemnation requires the approval of Eligible Holders who represent at least 51% of the votes of the Lots that are subject to Mortgages held by Eligible Holders.

13.14.3 Termination Without Destruction. Any election to terminate the legal status of the Property area as a planned unit development for reasons other than substantial destruction or substantial taking in condemnation requires the approval of Eligible Holders who represent at least 67% of the votes of the Lots that are subject to mortgages held by Eligible Holders.

13.15 Requests for Approval. A Mortgagee, First Mortgagee or Eligible Holder who receives a written request to approve additions or amendments to this Declaration and who does not deliver or post to the requesting party a negative response within 30 days of receipt shall be deemed to have approved such request.

13.16 Conflicts. In the event of any conflict between any of the provisions of this Article 14 and any other provisions of this Declaration, the provisions of this Article 14 shall control.

ARTICLE FOURTEEN MISCELLANEOUS

14.1 Amendment; Termination.

14.1.1 Amendment Before Closing of First Sale. Before the close of the first sale of a Lot to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of an instrument amending or revoking this Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Official Records of the County.

14.1.2 Amendment or Termination After the Close of First Sale. After the close of the first sale of a Lot to a purchaser other than Declarant and subject to Section 13.2 of this Declaration, the provisions of this Declaration may be amended or terminated by an instrument in writing signed and acknowledged by the majority of the members of the Board certifying under penalty of perjury that the amendment set forth therein was duly adopted with the vote or written consent of Members entitled to exercise more than 50% of the voting power of each class of voting membership of the Association (except that where a greater percentage or different vote is required with respect to any provision hereunder, amendment of any provision shall require the vote or written consent of at least the prescribed percentage of affirmative votes of each class required for action to be taken under that section), which amendment shall be effective upon recordation of the aforementioned instrument in the Official Records of the County. Upon the conversion of Declarant's Class B voting rights to Class A voting rights as provided in Section 4.3, amendment of the provisions of this Declaration shall require the approval of more than 50% of the total voting power held by all Members, including Declarant

and shall also require the vote or written consent of more than 50% of the voting power of the Association held by Members other than Declarant.

14.1.3 Amendments to Conform with Mortgagee Requirements. It is the intent of Declarant that this Declaration, the Articles and Bylaws of the Association, and the development in general shall now and in the future meet all requirements necessary for the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association to purchase, guarantee, insure or subsidize any Mortgage. Further, the provisions of this instrument shall be liberally interpreted so as to comply with the reasonable requirements of institutional lenders, the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. Notwithstanding any other provisions of this Section 14.1, for so long as Declarant owns any portion of the Property, Declarant may unilaterally amend this Declaration by recording a written instrument signed by Declarant in order to conform this Declaration to the requirements of First Mortgagees.

14.2 Notice and Hearing. Any requirements elsewhere in this Declaration which require notice and hearing shall meet the minimum requirements of Section 7341 of the Corporations Code of the State of California and provide the party who is entitled to the hearing with at least 15 days' notice of the hearing. Said notice shall set forth the reasons for imposing any proposed liability, assessment, penalty or other remedy, and shall be delivered to such person in person or by first-class or registered mail. All hearings shall be informal and rules of evidence shall not apply. All decisions shall be rendered in writing. No action shall be taken on any decision until at least five days after the date of the hearing.

14.3 Enforcement. The provisions of this Declaration, the Bylaws, the rules and regulations of the Association or the resolutions of the Board, as the same may be adopted or amended from time to time, shall constitute enforceable equitable servitudes which shall bind each Owner, the Association and their respective Invitees, and which may be enforced by Declarant, the Association or an Owner, by any proceeding at law or in equity. Every act or omission whereby any provision of the Governing Documents or the resolutions of the Board is violated, whether in whole or in part, is hereby declared to be a nuisance, and may be abated or enjoined through an action maintained by Declarant, the Association or an Owner, whether the relief requested is for negative or affirmative action. The failure of an Owner or any of its Invitees to comply strictly with the provisions of any of the foregoing instruments, as the same may be in force and effect from time to time, shall be grounds for an action to recover sums due for damages maintainable by Declarant, the Association or an aggrieved Owner, including without limitation reasonable attorneys' fees and costs. The failure by Declarant, the Association or an Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Each remedy set forth in this Declaration shall be in addition to all other remedies, whether available at law or in equity, and all such remedies, whether or not set forth in this Declaration, shall be cumulative and not exclusive. Excepting those powers provided by Section 5.9, the Association shall have no power to forfeit or abridge an Owner's rights to the full use and enjoyment of its Lot and Residence except where the forfeiture or abridgment is the result of the judgment of a court or a decision arising out of arbitration. The Board, pursuant to duly enacted Rules and Regulations, may temporarily suspend the rights of Owners as Members of the Association, including without

limitation voting rights and the rights to use Common Area facilities, but only after Notice and Hearing as provided in Section 14.2.

14.4 Joint and Several Liability. If a Lot is owned jointly by two or more persons, the liability of each Owner thereof in connection with the obligations of Owners imposed by this Declaration shall be joint and several.

14.5 Attorneys' Fees. In any action brought by Declarant, the Association (on behalf of itself or an Owner) or an Owner to enforce the provisions hereof, whether legal or equitable, the prevailing party shall be entitled to such reasonable legal expenses including without limitation attorneys' fees, court costs and experts' fees as may be fixed by the court or arbitrator.

14.6 Severability. The provisions of this Declaration shall be independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provisions which shall remain in full force and effect.

14.7 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for development and operation of the Property. Failure to enforce any provision hereof shall not constitute a waiver of the right thereafter to enforce said provision or any other provision hereof.

14.8 Limitation of Liability. The liability of any Owner for performance of any one or more of the provisions of this Declaration with respect to any Lot shall terminate upon the sale, transfer or other divestiture of such Owner's entire interest in that Lot with respect to obligations arising hereunder from and after the date of such divestiture.

14.9 Special Provisions Relating to Enforcement of Declarant's Obligations to Complete Common Area Improvements.

14.9.1 Enforcement of Bonded Obligation. Before the sale of any of the Lots, all Common Area improvements shall be completed, or Declarant shall post a bond or bonds (hereinafter called the "Bond" to secure their completion, as the DRE may require. With respect to any Common Area improvement for which a notice of completion has not been filed within 60 days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond (or, if the Board has given an extension in writing for the completion of any such facility, within 30 days after expiration of such extension) the Board may consider and vote on the question of action by the Association to enforce the obligations under the bond.

14.9.2 Rights of Members. If the Board decides not to initiate action to enforce the obligations under the Bond or if the Board fails to consider and vote on the question, the Members may call for a special meeting to consider the issue. Any such meeting shall be held not less than 35 days or more than 45 days after receipt by the Board of a petition for such a meeting signed by Members representing at least five percent of the Total Voting Power of the Association. The question of enforcement of the bond shall be considered and voted upon at such meeting by the Members in attendance, other than Declarant, and any proposal receiving the vote of a majority of the total voting power of the Association residing in Members other

than Declarant shall be the decision of the Association. The Board shall implement any decision to enforce the obligations under the bond made at such meeting by initiating and pursuing appropriate action in the name of the Association.

14.9.3 Inspection of Improvements and Release of Bond. The following procedure shall apply concerning the completion, inspection, correction and acceptance of any Common Area Improvements for which Declarant has posted any completion or other Bond(s) naming the Association as an obligee:

(a) Declarant, at its option, may notify the Board when the Common Area Improvements (including landscaping) or some portion thereof have been completed. Within 30 days after such notice, Declarant and the Board shall jointly request that a qualified engineer, architect or landscape architect employed by the City to inspect the Common Area Improvements that are the subject of the notice. If the City is unwilling or unable to provide an engineer, architect or landscape architect, Declarant and the Board shall jointly select an independent and qualified engineer, architect or landscape architect to perform the inspection. If Declarant and the Board are unable or fail to agree on the selection within 30 days after joint selection is requested by either, then Declarant and the Board, within the next 30 days, shall each select a licensed engineer, architect or landscape architect and the persons so selected, within 15 days after both are selected, shall jointly select a third engineer, architect or landscape architect. If either Declarant or the Board fails to select an engineer, architect or landscape architect within the time provided, then that party shall be deemed to have irrevocably waived its right to select, and the inspection shall be performed by the engineer, architect or landscape architect selected by the other party. If the engineers, architects or landscape architects selected by Declarant and the Board shall fail to select a third person within the time provided, then either Declarant or the Board may petition any court of competent jurisdiction for appointment of such a third person. Each person selected or appointed pursuant to this Section is referred to herein as an "Expert," and all Experts are referred to collectively as the "Expert." Declarant shall pay the reasonable compensation of the Expert.

(b) The Expert promptly shall inspect the applicable Common Area Improvements. Declarant and the Board may accompany the Expert during the inspection. The inspection shall be limited to a visual inspection, and Improvements shall not be uncovered. The Expert shall not be responsible for identifying latent defects. Promptly after the inspection is completed, the Expert shall submit a written report (the "Report") to Declarant and the Board stating that the Improvements conform to the plans and specifications therefor or specifying the defects in the Improvements. The Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the Improvements have been constructed in accordance with the plans and specifications therefor, and thereafter Declarant shall have no further liability, duty or obligation with respect to such Improvements except: (i) to remedy any defects specified in the Report; (ii) with respect to latent defects, if any; and (iii) the separate repair obligations of Declarant under express written warranty, if any.

(c) Declarant promptly shall correct any defects specified in the Report and request that the Expert reinspect the Improvements. The Expert shall reinspect such Improvements within 30 days after Declarant's request. Such reinspection shall be performed in the same manner as provided for the first inspection. Promptly after the reinspection is

completed, the Expert shall submit another written report (the "Reinspection Report") to Declarant and the Board stating that the Improvements conform to the plans and specifications therefor, or identifying the defects specified in the Report that have not been corrected. The Reinspection Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the Improvements have been constructed in accordance with the plans and specifications therefor, and thereafter Declarant shall have no further liability, duty or obligation with respect to such Improvements except: (i) to remedy any defects specified in the Reinspection Report; (ii) with respect to latent defects, if any; and (iii) the separate repair obligations of Declarant under express written warranty, if any.

(d) Additional reinspections and Reinspection Reports shall be made, if necessary, all in accordance with and with the same effect as provided above.

(e) If the Improvements to be inspected are landscaping Improvements, then the Expert shall be a horticulturist or landscape architect. In all other respects, the provisions of this Section shall apply to the inspection of landscaping Improvements.

(f) Within ten days after all defects have been corrected, as evidenced by a Report or Reinspection Report, the Board shall accept the Improvements in writing; and, if the DRE shall have required Declarant to post a Bond, or if Declarant shall have otherwise posted any Bonds, the Board shall release in writing any and all rights under any and all payment and performance, labor and material, and completion Bonds pertaining to the Improvements.

(g) The procedures and time frames set forth in this Section 14.9.3 do not supersede the procedures and time frames established in Section 14.9.1 and Section 14.9.2. If any procedure or time frame in Section 14.9.3 is inconsistent therewith, the procedure or time frame in Section 14.9.1 or Section 14.9.2 shall govern.

14.10 Notification Upon Sale or Lease of a Lot or Residence.

14.10.1 Sale. At least ten days prior to the consummation of any sale or other transaction which will result in a change in the record ownership of the fee interest in a Lot, the transferring Owner or Owners shall provide the following information to the Association in writing:

- (a) The name of each transferor and transferee;
- (b) The Lot number and street address of the Residence to be transferred;
- (c) The mailing address of each transferee;
- (d) The name and address of the escrow holder, if any, for such transfer and the escrow number; and
- (e) The proposed date for consummation of the transfer.

14.10.2 Lease. No later than five days after the execution of a lease on a Residence and in all circumstances at least three days prior to providing a lessee with possession

of a Residence, the lessor (whether an Owner or prior lessee) shall provide the Association with an executed copy of the lease and the following information in writing:

- (a) The name of each lessor and each lessee;
- (b) The Lot number and street address of the Residence to be leased;
- (c) The mailing address of each lessee;
- (d) The commencement and termination dates of the lease; and
- (e) The names of all persons who will occupy the Residence under the lease.

14.10.3 Effect of Failure to Notify. Until such time as the Association receives the notice required hereinabove, a transferee or lessee shall be deemed to have received any notice or other communication required or permitted to be given by the Association hereunder which is duly given to the transferor or lessor.

14.11 Obligations of Owners; Avoidance; Termination.

14.11.1 Nonuse or Abandonment. No Owner may avoid the obligations of membership in the Association or any other obligations imposed on it by this Declaration: (a) through nonuse of any Common Area; (b) by renunciation or abandonment of its Lot; (c) by any other act of renunciation or abandonment; or (d) by attempting to assign responsibility therefor to a tenant, manager or any third person.

14.11.2 Leasing. An Owner who leases its Residence to any person or entity shall be responsible for assuring compliance by his lessee with this Declaration, including all easements, reservations, assessments, liens and charges created in accordance with this Declaration, all as amended and supplemented from time to time.

14.11.3 Conveyance or Sale. Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any assessments levied with respect to such Lot after the date of such transfer, and no person, after the termination of its status as an Owner and prior to its again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under this Declaration. The voluntary conveyance of a Lot to a new Owner, however, will not extinguish any obligations for unpaid assessments against said Lot being conveyed.

14.11.4 No Severance. No Owner, or other person, may by conveyance, transfer or any other action, including an action at law for partition, sever any Lot or Lots from the Common Area or from the Association and all rights to do so are expressly waived.

14.12 Non-Liability and Indemnification.

14.12.1 Non-Liability of Officials, Volunteer Board Members and Officers, Association.

(a) To the fullest extent permitted by law, neither Declarant, the Board, a Director, officer or committee of the Association, nor a member of a committee of the Association, shall be liable to any Member, Owner, the Association or any other party for and on account of any decision, approval, disapproval, course of action, act, inaction, omission, error, negligence or the like made in good faith and within the scope of what such person or entity reasonably believed to be its duties (collectively, "Good Faith Actions").

(b) A volunteer Director or volunteer Association officer shall not be personally liable to any person or entity who suffers injury, including without limitation, bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Director if all of the applicable conditions specified in Section 1365.7 of the California Civil Code, as modified, amended or replaced, are met.

(c) The Association is not liable for damage to property on the Property unless caused by the negligence of the Association, the Board, a Director, or the Association's officers.

14.12.2 Indemnification.

(a) **Indemnification of Officials.** The Association shall, at its cost, indemnify, defend and hold harmless Declarant, the Board, a Director, officer or committee of the Association, and a member of a committee of the Association (including any volunteer Directors or officers or committee members) against any costs, demands, damage, loss, claim, liability or prejudice suffered or claimed as a result of any Good Faith Actions. The entitlement to indemnification hereunder inures to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any person entitled to such indemnification.

(b) Indemnification by Owners.

(1) Each Owner shall be liable to the other Owners and to the Association for any damage to the Common Area that may be sustained by reason of the negligence of Owner or Owner's Parties to the extent any such damage is not covered and paid by insurance carried by the Association, provided that the responsible Owner shall pay any deductible or related costs. Each Owner shall defend, indemnify and hold each and every other Owner harmless from and against any claim of any person for personal injury or property damage occurring on the Lot of such Owner, unless caused by another Owner or another Owner's Parties. No decision resulting in the liability of an Owner pursuant to this Section shall be reached until Notice and Hearing Requirements in respect of an Owner have been satisfied.

(2) Each Owner shall defend, indemnify and hold harmless each and every other Owner and the Association from and against all liability arising from the claim of any lien against the Lot of any other Owner or against the Common Area for construction performed, or for labor, materials, services, equipment or other products incorporated into

Improvements on the Owner's Lot, at such Owner's request or with its consent. At the written request of any Owner, the Association shall enforce this indemnity by collecting from the Owner of the Lot on which the labor was performed or to which materials were furnished, through Reimbursement Assessment against the Owner of said Lot, the amount necessary to discharge any such lien, including all costs incident thereto. No decision resulting in the liability of an Owner pursuant to this Section shall be reached until Notice and Hearing Requirements in respect of an Owner have been satisfied.

14.13 Scope. Each Owner, by mere acceptance of a deed to a Lot, shall be deemed to have agreed, for any and all purposes, for Owner's Parties, to abide by, and to be bound by, each and every provision of this Declaration that subjects the Owner or other person to a contractual, fiduciary or other duty, obligation or agreement for the benefit of Declarant, the Association, the other Owners, either individually or as a class, the Property or any part thereof, including the individual Lots, or the public generally, regardless of whether the deed refers specifically to this Declaration or to any such duty, obligation or agreement.

14.14 Effective Date. This Declaration shall become effective upon its recordation in the Official Records of the County.

14.15 Notices. Except as otherwise provided herein, notice to be given to an Owner must be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one or more co-Owners of a Lot or to any general partner of a partnership or manager or member of a limited liability company owning a Lot constitutes delivery to all co-Owners or to the partnership or limited liability company, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation constitutes delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the owner at the most recent address furnished by such Owner to the Association or, if no such address has been furnished, to the street address of such Owner's Lot. Such notice is deemed delivered three business days after the time of such mailing, except for notice of a meeting of Members or of the Board, in which case the notice provisions of the Bylaws control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed from time to time and circulated to all Owners.

14.16 Periodic Inspections. Declarant shall have the right, but not the obligation, to conduct inspections and tests from time to time of all or any parts of the Common Areas in order to ascertain the physical condition of the Improvements and determine whether maintenance, repairs or replacements of any such Improvements are indicated. If Declarant conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Property to its condition immediately prior to the inspections and tests, and shall indemnify the Association and Owner(s) of any affected Lot(s) from any damages resulting therefrom. The Association may have a representative accompany Declarant if it so elects. Declarant shall provide the Association with copies of any written reports describing the results of any such inspections or tests. Declarant shall have such rights of entry on, over, under, across and through the Property as may be reasonably necessary to exercise the rights described in this Section 14.16.

14.17 Lot Line Adjustments. The Owners of adjacent Lots may adjust the common boundary between their Lots provided that they comply with all applicable laws, ordinances and codes in connection therewith. The Association and the Owner of a Lot adjacent to the Common Area may adjust the boundary between the Owner's Lot and the Common Area, provided (a) they comply with all the applicable laws, ordinances and codes in connection therewith; and (b) the lot line adjustment does not interfere with the intended use of or purpose for the Common Area. No lot line adjustment pursuant to this Section 14.17 shall affect the amount of the Assessments to be levied against a Lot pursuant to this Declaration.

14.18 Delivery of Board Books and Records.

14.18.1 Delivery After First Sale. Commencing not later than 90 days after the close of escrow of the first sale of a Lot, copies of the documents listed below, as soon as readily obtainable, shall be delivered by Declarant to the Board at the office of the Association, or at such other place as the Board shall prescribe. The obligation to deliver the documents listed below shall apply to any documents obtained by Declarant no matter when obtained; provided, however, such obligation shall terminate upon the earlier of: (a) the conveyance of the last Lot covered by a final subdivision public report for the Property; or (b) three years after the expiration of the most recent public report, on the Property:

- (a) The recorded subdivision map or maps for the Property.
- (b) The deeds and easements executed by Declarant conveying the Common Area or other interest to the Association, to the extent applicable.
- (c) This Declaration, including all amendments and annexations thereto.
- (d) The Articles and all amendments thereto.
- (e) The Bylaws and all amendments thereto.
- (f) All architectural guidelines and all other rules regulating the use of an Owner's Lot or use of the Common Area which have been promulgated by the Association.
- (g) The plans approved by the local agency or county where the Property is located for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy.
- (h) All notice of completion certificates issued for Common Area improvements (other than residential structures).
- (i) Any bond or other security device in which the Association is the beneficiary.
- (j) Any written warranty being transferred to the Association for Common Area equipment, fixtures or improvements.

(k) Any insurance policy procured for the benefit of the Association, the Board or the Common Area.

(l) Any lease or contract to which the Association is a party.

(m) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Members, of the governing body and of committees of the governing body of the Association.

(n) Any other instrument not described above which establishes or defines the common, mutual or reciprocal rights or responsibilities of Members of the Association.

14.18.2 Delivery After Annexation. Commencing not later than 90 days after the annexation of additional phases to the Property, copies of those documents listed under Section 14.18.1 which are applicable to that Phase and not previously delivered to the Board, shall, as soon as readily obtainable, be delivered by Declarant to the Board at the office of the Association, or at such other place as the Board shall prescribe. The obligation to deliver the documents listed in Section 14.18.1 shall apply to any documents obtained by Declarant no matter when obtained; provided, however, such obligation shall terminate upon the earlier of: (1) the conveyance of the last Lot covered by a final subdivision public report for the Property; or (2) three years after the expiration of the most recent final public report, for the Property.

14.19 Term of Declaration. This Declaration shall continue for a term of 50 years from its date of recordation. Thereafter, this Declaration shall be automatically extended for successive periods of ten years unless and until two-thirds (2/3) of the Owners approve a termination of this Declaration.

14.20 Construction of Provisions. The provisions of this Declaration shall be liberally construed to effect its purpose of creating a uniform plan for the development and operation of a planned development pursuant to the provisions of Section 1350, *et seq.* of the California Civil Code, as amended or replaced from time to time.

14.21 Binding Effect. This Declaration shall be for the benefit of and be binding upon all Owners, their respective heirs, legatees, devisees, executors, administrators, guardians, conservators, successors, purchasers, tenants, encumbrancers, donees, grantees, mortgagees, lienors and assigns.

14.22 Gender, Number and Captions. As used herein, the singular shall include the plural and masculine pronouns shall include feminine pronouns, where appropriate. The title and captions of each paragraph of this Declaration are not a part thereof and shall not affect the construction or interpretation of any part of this Declaration.

14.23 Redistribution of Governing Documents. Upon the resale of any Lot by any Owner, the Owner shall supply to the buyer of the Lot a copy of each of the Governing Documents.

14.24 Exhibits. All exhibits attached to this Declaration are incorporated by this reference as though fully set forth herein.

14.25 Required Actions of the Association. The Association shall at all times take all reasonable actions necessary for the Association to comply with the terms of this Declaration or otherwise to carry out the intent of this Declaration.

14.26 No Waiver. Failure by the Association, any Owner or Declarant to enforce any covenant, condition, restriction or reservation contained in any of the Governing Documents in any certain instance or on any particular occasion shall not be deemed a waiver of such right upon any such future breach of the same or another covenant, condition, restriction or reservation.


14.27 Cumulative Remedies. All rights, options and remedies of Declarant, the Association and the Owners contained in this Declaration are cumulative, and no one of them shall be exclusive of any other. Declarant, the Association and each Owner shall have the right to pursue any one or all of such rights, options or remedies.

14.28 No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Property or any portion of the Property, or any Improvement thereon, its physical conditions, zoning compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration and except as may be filed by Declarant from time to time with the VA, FHA, DRE or with any other governmental authority.

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective upon recordation in the Official Records of the County.

Woodlake L.P., a Delaware limited partnership

By: William Lyon Homes, a California corporation, its general partner

By: 
Name: DOUGLAS F. BAUER
Its: SR. VICE PRESIDENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

On July 12, 2001 before me, Diana Clavet, Notary Public, personally appeared, Douglas F. Bauer, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature Diana Clavet
Diana Clavet, Notary Public

Commission #1207074
My Commission Expires on January, 7, 2003
Principal County of Business is Contra Costa County