

In addition, fidelity insurance shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to any insurance trustee named pursuant to Section 8.5 and to each Fannie Mae servicer who has filed a written request with the carrier for such notice.

8.5 TRUSTEE FOR POLICIES. The Association is trustee of the interests of all named insureds under the Association's insurance policies. Unless an insurance policy provides for a different procedure for filing claims, all claims must be sent to the insurance carrier or agent by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made. All insurance proceeds under any Association insurance policies must be paid to the Board as trustees. The Board has the authority to negotiate loss settlements with insurance carriers, with participation, to the extent the Board desires, of First Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 9.3. The Board is authorized to make a settlement with any insurer for less than full coverage for any damage, so long as the Board acts in accordance with the standard of care established in this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures are binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement and any successor to such trustee, who shall have exclusive authority to negotiate losses under any insurance policy and to perform such other functions necessary to accomplish this purpose.

8.6 ACTIONS AS TRUSTEE. Except as otherwise specifically provided in this Declaration, the Board has the exclusive right to bind the Association and the Owners to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation and modification of all such insurance. Duplicate originals or certificates of all policies of fire and casualty insurance kept by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who requested them in writing.

8.7 ANNUAL INSURANCE REVIEW. The Board shall review the Association's insurance policies at least annually to determine the amount of the casualty and fire insurance referred to in Section 8.1. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on the Common Property, without deduction for depreciation, from a qualified independent insurance appraiser, before each such annual review.

8.8 REQUIRED WAIVER. All of the Association's insurance policies insuring against physical damage must provide, if reasonably possible, for waiver of:

8.8.1 Subrogation of claims against the Owners and tenants of the Owners;

8.8.2 Any defense based on coinsurance;

8.8.3 Any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association;

8.8.4 Any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured;

8.8.5 Any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;

~~8.8.6 Notice of the assignment of any Owner of the Owner's interest in the insurance by virtue of a conveyance of any Lot;~~

8.8.7 Any right to require any assignment of any Mortgage to the insurer;

8.8.8 Any denial of an Owner's claim because of negligence or willful acts by the Association or other Owners; and

8.8.9 Prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

ARTICLE IX DESTRUCTION OF IMPROVEMENTS

9.1 **RESTORATION OF THE COMMUNITY.** Except as otherwise authorized by the Owners, if any portion of the Community which the Association is responsible for maintaining is destroyed, the Association shall restore the same to its former condition as promptly as practical and in accordance with applicable law and County codes and approvals, including plan checks, permits and fee payments. The Association shall use the proceeds of its insurance for reconstruction or repair of the Community unless otherwise authorized in this Declaration or by the Owners. The Board shall commence such reconstruction promptly. The Community shall be reconstructed or rebuilt substantially in accordance with the original construction plans if they are available, unless changes recommended by the Design Review Committee have been approved by the Owners. If the insurance proceeds amount to at least ninety percent (90%) of the estimated cost of restoration and repair, the Board shall levy a Reconstruction Assessment to provide the additional funds necessary for such reconstruction. If the insurance proceeds amount to less than ninety percent (90%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("**Conditions To Reconstruction**") have been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Community is approved by the Owners, and (b) within one (1) year after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("**Reconstruction Certificate**"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than ninety percent (90%) of the estimated cost of restoration and repair, then the Board shall deposit the funds in the Operating Fund.

9.2 **DAMAGE TO RESIDENCES-RECONSTRUCTION.** If all or any portion of any Residence or other Improvements on a Lot is damaged or destroyed by fire or other casualty,

the Owner of the damaged Lot shall rebuild, repair or reconstruct the Residence and Improvements in accordance with all applicable laws and codes and in a manner which will restore them substantially to their appearance and condition immediately before the casualty or as otherwise approved by the Design Review Committee. If all or any portion of an Owner's Lot is destroyed to such an extent that it would be impractical to restore the Lot or rebuild damaged Improvements, the Owner shall install landscaping Improvements on the Lot in accordance with Design Review Committee Guidelines. The Owner of any damaged Lot or Residence and the Design Review Committee shall proceed with all due diligence, and the Owner shall cause reconstruction or installation of landscape Improvements (as applicable) to commence within six (6) months after the damage occurs and to be completed within twelve (12) months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. The transfer of a damaged Lot or a Lot with a damaged Residence to another Person will not extend the time allowed in this Section for commencement and completion of reconstruction or installation of landscape Improvements by the transferee. However, no such transferee will be required to commence or complete reconstruction or installation of landscape Improvements in less than thirty (30) days from the date the transferee acquired title to the Lot.

9.3 NOTICE TO OWNERS AND FIRST MORTGAGEES. The Board, immediately on having knowledge of any damage or destruction affecting a material portion of the Common Area owned in fee simple by the Association, shall promptly notify all Owners and Mortgagees, insurers and guarantors of First Mortgages on Lots in the Community who have filed a written request for such notice with the Board.

ARTICLE X EMINENT DOMAIN

The term "taking" as used in this Article means inverse condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent domain. The Board shall represent the Owners in any proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article.

10.1 CONDEMNATION OF COMMON AREA. If there is a taking of the Common Area owned in fee simple by the Association, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

10.2 CONDEMNATION OF LOTS. If there is a taking of a Lot, the award in condemnation shall be paid to the Owner of the Lot; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Lot, in order of priority.

10.3 NOTICE TO OWNERS AND FIRST MORTGAGEES. The Board, on learning of any condemnation proceeding affecting a material portion of the Common Area, or any threat thereof, shall promptly notify all Owners and those First Mortgagees, insurers and guarantors of First Mortgages on Lots in the Community who have filed a written request for such notice with the Association.

**ARTICLE XI
RIGHTS OF MORTGAGEES**

11.1 **GENERAL PROTECTIONS.** No amendment or violation of this Declaration defeats or renders invalid the rights of the Mortgagee under any Mortgage encumbering one (1) or more Lots made in good faith and for value, provided that after the foreclosure of any such Mortgage, the foreclosed Lot(s) will remain subject to this Declaration. For purposes of any provisions of the Governing Documents which require the vote or approval of a specified percentage of First Mortgagees, such vote or approval is determined based on one (1) vote for each Lot encumbered by each such First Mortgage.

11.2 **ADDITIONAL RIGHTS.** In order to induce the VA, FHA, Freddie Mac, Ginnie Mae and Fannie Mae to participate in the financing of the sale of Lots, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Governing Documents, these added provisions control):

11.2.1 **Notices.** Each Mortgagee, insurer and guarantor of a Mortgage encumbering one (1) or more Lots, upon filing a written request for notification with the Board, is entitled to written notification from the Association of: (a) any condemnation or casualty loss which affects either a material portion of the Community or the Lot(s) securing the respective First Mortgage; (b) any delinquency of sixty (60) days or more in the performance of any obligation under the Governing Documents, including the payment of Assessments or charges owed by the Owner(s) of the Lot(s) securing the Mortgage, which notice each Owner hereby consents to and authorizes; and (c) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond kept by the Association.

11.2.2 **Right of First Refusal.** Each Owner who obtains title to a Lot (including a First Mortgagee who obtains title to a Lot pursuant to (a) the remedies provided in such Mortgage, (b) foreclosure of the Mortgage, or (c) deed or assignment in lieu of foreclosure), is exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

11.2.3 **Unpaid Assessments.** If the First Mortgagee of a Lot obtains fee title to the Lot either by foreclosure or by any other remedy provided under the Mortgage, then the Mortgagee shall take title to the Lot free and clear of any claims for unpaid Assessments or charges against the Lot to the extent the Assessments or charges accrued before the date on which the Mortgagee acquired title to the Lot.

11.2.4 **Association Records.** All Mortgagees, insurers and guarantors of First Mortgages, on written request to the Association, shall have the right to:

- (a) examine current copies of the Association's books, records and financial statements and the Governing Documents during normal business hours;
- (b) receive written notice of all meetings of Owners; and
- (c) designate in writing a representative who shall be authorized to attend all meetings of Owners.

11.2.5 **Payment of Taxes.** First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area, and the Association shall immediately reimburse First Mortgagees who made such payments.

11.2.6 **Intended Improvements.** All intended Improvements in any Phase other than Phase 1 must be substantially completed or the completion of such Improvements must be secured by a bond or other arrangement acceptable to the CalBRE before the first Close of Escrow in such Phase. ~~All intended Improvements in any Phase other than Phase 1 shall be~~ substantially consistent with the Improvements in Phase 1 in structure, type and quality of construction. The requirements of this Section are for the benefit of and may be enforced only by Fannie Mae.

11.2.7 **Contracts.** The Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, Freddie Mac, Ginnie Mae, Fannie Mae or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of First Mortgages encumbering Lots improved with Residences. Each Owner hereby agrees that it will benefit the Association and the Owners, as a class of potential Mortgage borrowers and potential sellers of their Lots, if such agencies approve the Community as a qualifying subdivision under their respective policies, rules and regulations. Each Owner hereby authorizes his Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Lot.

ARTICLE XII ENFORCEMENT AND DISPUTE RESOLUTION

12.1 **ENFORCEMENT OF GOVERNING DOCUMENTS.** All violations of the Governing Documents, except for: (a) those governed by Sections 12.2 or 12.3, or (b) those subject to the Fix-It Law (and accordingly subject to resolution through the statutory non-adversarial pre-litigation process commencing at California Civil Code Section 910 and alternative dispute resolution provisions commencing at Section 12.4 below), or California Civil Code Section 6000 (the "*Calderon Act*"), shall be resolved as follows:

12.1.1 **Right to Enforce.** The Board, the Association, the Declarant, each Neighborhood Builder and any Owner may enforce the Governing Documents as described in this Article, subject to Sections 5900, *et seq.*, and 5925, *et seq.* of the California Civil Code. Each Owner has a right of action against the Association for the Association's failure to comply with the Governing Documents. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive. The County shall have the right, but not the obligation, to enforce any provision of this Declaration.

12.1.2 **Violations Identified by the Association.** If the Board or the Design Review Committee determines that there is a violation of the Governing Documents, other than nonpayment of any Assessment, then the Board shall give written notice to the responsible Owner identifying (a) the condition or violation complained of, and (b) the length of time the Owner has to remedy the violation including, if appropriate, the length of time the Owner has to

submit plans to the Design Review Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Design Review Committee. This requirement shall apply notwithstanding the fact that this Declaration may duplicate County ordinances or regulations. If an Owner does not perform corrective action within the allotted time, the Board, after Notice and Hearing, may remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. If the violation involves nonpayment of any Assessment, then the Board may collect such delinquent Assessment pursuant to the procedures established in Section 12.2.

12.1.3 Violations Identified by an Owner. If an Owner alleges that another Person is violating the Governing Documents (other than nonpayment of any Assessment), the complaining Owner must first submit the matter to the Board for Notice and Hearing before the complaining Owner may resort to alternative dispute resolution, as required by Section 5925, *et seq.*, of the California Civil Code, or litigation for relief.

12.1.4 Legal Proceedings. Failure to comply with any of the terms of the Governing Documents by any Person is grounds for relief which may include an action to recover damages, injunctive relief, foreclosure of any lien, or any combination thereof; however, the procedures established in Sections 5900, *et seq.*, and 5925, *et seq.*, of the California Civil Code and in Sections 12.1.2 and 12.1.3 must first be followed, if they apply.

12.1.5 Additional Remedies. After Notice and Hearing, the Board may impose any of the remedies provided for in the Bylaws. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, the Board may assess against a Person for the failure of such Person to comply with the Governing Documents. Such fines or penalties may only be assessed pursuant to Civil Code Sections 5850 and 5855. After Notice and Hearing, the Board may direct the officers of the Association to Record a notice of noncompliance (if allowed by law) against a Lot owned by any Owner who has violated any provision of this Declaration. The notice shall include a legal description of the Lot and shall specify the provision of this Declaration that was violated, the violation committed, and the steps required to remedy the noncompliance. Once the noncompliance is remedied or the noncomplying Owner has taken such other steps as reasonably required by the Board, the Board shall direct the officers of the Association to Record a notice that the noncompliance has been remedied.

12.1.6 No Waiver. Failure to enforce any provision of this Declaration does not waive the right to enforce that provision, or any other provision of this Declaration.

12.1.7 Limit on Expenditures. The Association may not incur litigation expenses, including attorneys' fees, or borrow money to fund litigation, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Association first obtains the consent of a majority of the Association's voting power (excluding the voting power of any Owner who would be a defendant in such proceedings) and, if applicable, complies with the requirements of Sections 5900, *et seq.*, and 5925, *et seq.*, of the California Civil Code. Such approval is not necessary if the legal proceedings are initiated (a) to enforce the use restrictions contained in Article 2, (b) to enforce the architectural and landscaping control provisions contained in Article 5, (c) to collect any unpaid Assessments levied pursuant to the

Governing Documents, (d) for a claim, (other than a Fix-It Law Claim) the total value of which is less than Five Hundred Thousand Dollars (\$500,000), or (e) as a cross-complaint in litigation to which the Association is already a party. If the Association decides to use or transfer Reserve Funds or borrow funds to pay for any litigation, the Association must notify the Owners of the decision by mail. Such notice shall provide an explanation of why the litigation is being initiated or defended, why Operating Funds cannot be used, how and when the Reserve Funds will be replaced or the loan will be repaid, and a proposed budget for the litigation. The notice must state that the Owners have a right to review an accounting for the litigation which will be available at the Association's office. The accounting shall be updated monthly. If the Association action to incur litigation expenses or borrow money to fund litigation concerns a Fix-It Law Claim, then the voting requirements of both Sections 4.5.2 and 12.1.7 must be met.

12.2 DELINQUENT ASSESSMENTS.

12.2.1 **Delinquency.** Assessments are delinquent if not paid within fifteen (15) days after the due date established by the Association. Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges bear interest at the maximum rate permitted by law commencing thirty (30) days after the due date until paid. The Association may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 5650. The Association need not accept any tender of a partial payment of an Assessment and all costs and attorneys' fees attributable thereto. Acceptance of any such tender does not waive the Association's right to demand and receive full payment.

12.2.2 Creation and Release of Lien.

(a) **Priority of Lien.** All liens levied in accordance with this Declaration shall be prior and superior to (1) any declaration of homestead Recorded after the Recordation of this Declaration, and (2) all other liens, except (A) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (B) the lien or charge of any First Mortgage made in good faith and for value and Recorded before the date on which the "Notice of Delinquent Assessment" (described in this Section) against the assessed Lot was Recorded.

(b) **Notice Before Creating Lien.** Before the Association may place a lien on an Owner's Lot to collect a past due Assessment, the Association shall send written notice ("**Notice of Intent to Lien**"), at least thirty (30) days before Recording the lien, to the Owner by certified mail which contains the following information: (1) the Association's fee and penalty procedure, (2) an itemized statement of the charges owed by the Owner, including the principal owed, any late charges, any interest, the method of calculation, and any attorneys' fees, (3) the collection practices used by the Association, (4) a statement that the Association may recover reasonable costs of collecting past due Assessments, (5) a statement that the Owner has the right to inspect the Association's records, pursuant to California Corporations Code Section 8333, (6) the following statement in 14-point boldface type or all capital letters: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION," (7) a statement that the Owner shall not be liable to pay the charges, interest and costs of collection if it is determined the Assessment was paid on time to the Association,

(8) a statement that the Owner has the right to request a meeting with the Board, as provided by California Civil Code Section 5705(b) and Section 12.2.2(g) below, (9) a statement concerning the Owner's right to dispute the Assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program required in California Civil Code Section 5900, *et seq.*, and (10) a statement concerning the Owner's right to request alternative dispute resolution with a neutral third party pursuant to California Civil Code Section 5925, *et seq.*, before the Association may initiate foreclosure against the Owner's separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(c) ***Dispute Resolution Before Recording Lien.*** Before Recording a Notice of Delinquent Assessment, the Association shall offer the Owner and, if the Owner so requests, participate in dispute resolution under the Association's "meet and confer" program.

(d) ***Dispute Resolution Before Foreclosure.*** Before initiating a foreclosure for delinquent Assessments, the Association shall offer the Owner and, if the Owner so requests, shall participate in dispute resolution under the Association's "meet and confer" or alternative dispute resolution with a neutral third party. The decision to pursue resolution or a particular type of alternative dispute resolution is the Owner's choice, except that binding arbitration is not available if the Association intends to initiate a judicial foreclosure.

(e) ***Board Approval.*** The decision to Record a Notice of Delinquent Assessment shall be made only by the Board and may not be delegated to an Association agent. The Board must approve the decision by a majority vote of the Board members in an open meeting. The Board shall record the vote in the minutes of that meeting.

(f) ***Dispute by Owner.*** An Owner may dispute the Notice of Intent to Lien by submitting to the Board a written explanation of the reasons for the Owner's dispute. The Board shall respond in writing to the Owner within fifteen (15) days after the date of the postmark of the explanation, if the explanation is mailed within fifteen (15) days after the postmark of the Notice of Intent to Lien.

(g) ***Owner's Right to Request Meeting.*** An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt noticed in Section 12.2.2(b) above. The Association shall provide the Owner with the standards for payment plans, if any exist. The Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days after the date of the postmark of the Notice of Intent to Lien, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more members to meet with the Owner.

(h) ***Notice of Delinquent Assessment.*** The lien becomes effective on Recordation by the Board or its authorized agent of a Notice of Delinquent Assessment ("***Notice of Delinquent Assessment***") securing the payment of any Assessment or installment thereof levied by the Association against any Lot Owner, as provided in California Civil Code Section 5675. The Notice of Delinquent Assessment must identify (1) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and

Recording the Notice of Delinquent Assessment, (2) the amount of collection costs incurred, including reasonable attorneys' fees, (3) a sufficient description of the Lot that has been assessed, (4) the Association's name and address, (5) the name of the Owner of the Lot that has been assessed, and (6) if the lien is to be enforced by non-judicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent and must be mailed in the manner required by California Civil Code Section 2924b to the Owner of record of the Lot no later than ten (10) calendar days after Recordation. The lien relates only to the individual Lot against which the Assessment was levied and not to the Community as a whole.

(i) ***Service on Owner's Legal Representative.*** In addition to the requirements of California Civil Code Section 2924, a Notice of Delinquent Assessment shall be served by the Association on the Owner's legal representative as provided in California Code of Civil Procedure Section 415.10 and following.

(j) ***Secondary Addresses.*** Upon receipt of an Owner's written request identifying a secondary address for purposes of collection notices, the Association shall send an additional copy of any Notice of Intent to Lien, Notice of Delinquent Assessment or other Notice given under Section 12.2.2 to the secondary address provided. The Association shall notify Owners of their right to submit secondary addresses to the Association, when the Association issues its pro forma operating budget under California Civil Code Section 5300. The Owner's request must be in writing and mailed to the Association in a manner which indicates the Association has received it. The Owner may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send Notices to the indicated secondary address from the point the Association receives the request.

(k) ***Exceptions.*** Assessments described in California Civil Code Section 5725(b) and California Code of Regulations Section 2792.26(c) may not become a lien against an Owner's Lot enforceable by the sale of the Lot under California Civil Code Sections 2924, 2924b and 2924c.

(l) ***Release of Lien.*** Within twenty-one (21) days after payment of the full amount claimed in the Notice of Delinquent Assessment, or other satisfaction thereof, the Board shall cause to be Recorded a Notice of Satisfaction and Release of Lien ("***Notice of Release***") stating the satisfaction and release of the amount claimed. The Association shall provide the Owner with a copy of the Notice of Release or any other notice that the full amount claimed in the Notice of Delinquent Assessment has been satisfied. The Board may require the Owner to pay a reasonable charge for preparing and Recording the Notice of Release. Any purchaser or encumbrancer who has acted in good faith and extended value may rely on the Notice of Release as conclusive evidence of the full satisfaction of the sums identified as owed in the Notice of Delinquent Assessment.

12.2.3 **Enforcement of Liens.** The Board shall enforce the collection of amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration, subject to the restrictions in California Civil Code Sections 5705, 5715 and 5720.

(a) The lien on a Lot may be enforced by foreclosure and sale of the Lot after the Owners failure to pay any Assessment, or installment thereof, as provided in this Declaration.

(b) The decision to initiate foreclosure after Recording a Notice of Delinquent Assessment shall be made only by the Board and may not be delegated to an Association agent. The Board shall approve the decision by a majority vote of the Board members in an executive session. The Board shall record the vote in the minutes of the next Board meeting open to all members. The Board shall maintain the confidentiality of the Owner or Owners by identifying the matter in the minutes by the Lot number, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days before any public sale.

(c) The Board shall provide notice by personal service to an Owner who occupies the Lot or to the Owner's legal representative, if the Board votes to foreclose on the Lot. The Board shall provide written notice to an Owner who does not occupy the Lot by first-class mail, postage prepaid, at the most current address shown on the Association's books. Unless the Owner provides written notification of a different mailing address to the Association, the address of the Owner's Lot may be treated as the Owner's mailing address.

(d) The sale shall be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in Mortgages, or in any manner permitted by law. The Association (or any Owner if the Association refuses to act) may sue to foreclose the lien if (1) at least thirty (30) days have elapsed since the date on which the Notice of Delinquent Assessment was Recorded, and (2) at least ten (10) days have elapsed since a copy of the Notice of Delinquent Assessment was mailed to the Owner affected thereby. The Association may bid on the Lot at foreclosure sale, using as a credit bid the amounts secured by its lien plus trustee's fees and expenses, Association funds, or funds borrowed for such purpose, and acquire and hold, lease, mortgage and convey the same. On completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value for the Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. A nonjudicial foreclosure to collect delinquent Assessments shall be subject to the right of redemption within ninety (90) days after the sale, as provided in California Civil Code Section 5715(b).

(e) A suit to recover a money judgment for unpaid Assessments may be brought without foreclosing or waiving any lien securing the same, subject to the provisions of California Civil Code Section 5655, but this provision or any suit to recover a money judgment does not affirm the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

12.2.4 Priority of Assessment Lien. Mortgages Recorded before a Notice of Delinquent Assessment have lien priority over the Notice of Delinquent Assessment. Sale or transfer of any Lot does not affect the Assessment lien, except that the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a First Mortgage extinguishes the lien of such

Assessments as to payments which became due before such sale or transfer. No sale or transfer relieves such Lot from liens for any Assessments thereafter becoming due. No Person who obtains title to a Lot pursuant to a judicial or non-judicial foreclosure of the First Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Lot which became due before the acquisition of title to the Lot by such Person. Such unpaid share of Common Expenses or Assessments is a Common Expense collectible from all Owners including such Person. The Association may take such action as is necessary to make any Assessment lien subordinate to the interests of the California Department of Veterans Affairs under its Cal-Vet loan contracts as if the Cal-Vet loan contracts were First Mortgages.

12.2.5 **Alternative Dispute Resolution.** An Owner may dispute the Assessments imposed by the Association as provided in this Declaration and in California Civil Code Sections 5650, *et seq.*, and 5705. If it is determined through dispute resolution pursuant to the Association's "meet and confer" program required in this Declaration or alternative dispute resolution with a neutral third party pursuant to California Civil Code Section 5925, *et seq.*, that the Association Recorded a Notice of Delinquent Assessment in error, the Association shall promptly reverse all late charges, fees, interest, attorney's fees, costs of collection, costs imposed for the Notice prescribed in Section 5660, and costs of Recordation and release of the lien authorized under Section 5720(b) and pay all costs related to the dispute resolution or alternative dispute resolution.

12.2.6 **Receivers.** In addition to the foreclosure and other remedies granted to the Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Lot, conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Lot, subject to the right of the Association to collect and apply such rents, issues and profits to any delinquent Assessments owed by such Owner, reserving to the Owner the right, before any default by the Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. On any such default, the Association may, on the expiration of thirty (30) days following delivery to the Owner of the "Notice of Delinquent Assessment" described in this Declaration, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described in this Declaration, (a) enter in or on and take possession of the Lot or any part thereof, (b) in the Association's name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses of operation, to any delinquencies of the Owner, and in such order as the Association may determine. The entering upon and taking possession of the Lot, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default under this Declaration or invalidate any act done pursuant to such notice.

12.2.7 **Compliance with Law.** To the extent that any provision in this Section 12.2 conflicts with the provisions of the CID Act, the statutory provisions shall control.

12.3 **ENFORCEMENT OF BONDED OBLIGATIONS.** If (a) the Common Property Improvements in any Phase are not completed before issuance of a Public Report for such Phase by the CalBRE, and (b) the Association is an obligee under a bond or other arrangement ("**Bond**") required by the CalBRE to secure performance of Declarant's or a

Neighborhood Builder's commitment to complete such Improvements, then the following provisions of this Section will be applicable:

12.3.1 **Consideration by the Board.** The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any such Improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Property Improvement, then the Board shall be directed to consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

12.3.2 **Consideration by the Owners.** A special meeting of Owners for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the Board's failure to consider and vote on the question shall be held no fewer than thirty-five (35) nor more than forty-five (45) days after the Board receives a petition for such a meeting signed by Owners representing five percent (5%) of the Association's total voting power. A vote of a majority of the Association's voting power (excluding Declarant and any Neighborhood Builder) to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the Association's name.

12.4 **DISPUTES WITH DECLARANT PARTIES.** The following dispute resolution procedure is implemented for the Community in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. Sections 1-16) which is designed to encourage use of alternative methods of dispute resolution that avoid costly and potentially lengthy traditional court proceedings. The dispute resolution procedure in this Section 12.4 (collectively referred to as "**Section 12.4**") and the Exhibits attached to this Declaration are to be interpreted and enforced as authorized by the Federal Arbitration Act. Parties interpreting this Section 12.4 shall follow the federal court rulings which provide, without limitation, that the Federal Arbitration Act (1) is a congressional declaration of a liberal federal policy favoring arbitration agreements, notwithstanding substantive or procedural state policies to the contrary, (2) requires that federal and state courts rigorously enforce agreements to arbitrate, (3) requires the scope of this alternative dispute resolution agreement be interpreted broadly in favor of arbitration, and (4) requires disputes over whether an issue is arbitrable be resolved by a finding in favor of arbitration. Specifically, this Section 12.4 is to be interpreted in accordance with *Allied-Bruce Terminix Companies, Inc. v. Dobson*, 115 S.Ct. 834 (1995), and other federal court rulings. References in this Section 12.4 to California Code Sections are not to be interpreted as a waiver of rights created under the Federal Arbitration Act.

12.4.1 **Alternative Dispute Resolution Provisions.** Any Dispute, as defined in *Exhibit H*, entitled "Alternative Dispute Resolution Provisions" (hereinafter referred to as the "**ADR Provisions**"), shall be governed by and resolved in accordance with the ADR Provisions.

12.4.2 **Required Vote to Make a Claim.** Prior to filing a claim pursuant to the ADR Provisions, the Association must obtain the vote or written consent of Owners who represent not less than fifty-one percent (51%) of the Association's voting power (excluding the

voting power of Declarant and Neighborhood Builders). So long as a majority of the voting power of members is held by Declarant or Neighborhood Builders, or so long as there are two or more outstanding classes of membership, the Board's decision of whether to investigate or to initiate a Fix-It Law Claim (under Title 7 of Part 2 of Division 2 of the California Civil Code), shall be decided by directors elected by Members other than Declarant and Neighborhood Builders at a meeting in which the quorum requirement for Board meetings was satisfied.

12.4.3 **Civil Code Section 5975.** This Section 12.4 governs only the resolution of Disputes with one or more Declarant Parties (as defined in *Exhibit H*) on the one hand, and ~~the Association or one or more Owners/subsequent Owners, on the other hand.~~ Unless the subject matter of a Dispute expressly involves enforcement of the Declaration, such Dispute shall not be governed by the provisions of California Civil Code Section 5975, or any successor statute. Each party in a Dispute with Declarant Parties shall bear its own attorneys' fees and costs, and the prevailing party shall not be entitled to an award of attorneys' fees or costs, except to the extent provided under California Civil Code Section 5975.

12.4.4 **AGREEMENT TO METHOD OF RESOLVING DISPUTES; WAIVER OF RIGHT TO JURY TRIAL; AMENDMENT.** DECLARANT, EACH NEIGHBORHOOD BUILDER, THE ASSOCIATION AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 12.4 AND THE ADR PROVISIONS TO RESOLVE ALL DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. DECLARANT, EACH NEIGHBORHOOD BUILDER, THE ASSOCIATION AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.4, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JUDGE OR JURY, PURSUANT TO THE FEDERAL ARBITRATION ACT. THIS SECTION 12.4 MAY NOT BE AMENDED WITHOUT DECLARANT'S WRITTEN CONSENT.

12.5 **LIMITED WARRANTY.** Declarant presently intends, but shall not have any obligation whatsoever, to extend to the Association and every original purchaser who purchases a Lot in the Community from Declarant a written Home Builder's Limited Warranty ("*Limited Warranty*") in substantially the form attached hereto as *Exhibit I*. If Declarant extends a Limited Warranty to the Association and an original purchaser, a copy of the Limited Warranty for a particular Lot, or for the Common Area, in the case of the Association, will be available from Professional Warranty Service Corporation, P.O. Box 800, Annandale, VA 22003-0800. In such event, the Association and every original purchaser of a Lot and every successive Owner of such Lot shall be bound by and be a beneficiary of the Limited Warranty during the "Warranty Period" as defined in the Limited Warranty. The Warranty Period of the Limited Warranty for a particular Lot or the Common Area, as the case may be, is set forth in the Limited Warranty Validation Form included with the Limited Warranty. The coverage limits under the Limited Warranty for a Lot or the Common Area, as the case may be, are set forth in the Limited Warranty Validation Form. Nothing in the Limited Warranty or any other document provided by Declarant in conjunction with the sale of a Lot or the transfer of the Common Area, diminishes any rights or obligations the Owner, the Association or any Declarant Party (as defined in *Exhibit H*) may have under the Fix-It Law. The Limited Warranty does not constitute an "enhanced protection agreement" under California Civil Code Section 901 or alternative nonadversarial contractual provisions under California Civil Code Section 914. The Limited

Warranty provides the Association and Owners with separate contractual rights from the rights provided in the Fix-It Law. Declarant's election to provide and be subject to the Limited Warranty is in consideration of Declarant's, the Association's and Owners' agreement to the ADR Provisions. Notwithstanding any other provision of this Declaration, the provisions of the Limited Warranty, including, without limitation, the binding arbitration procedure and the limitation of statutory and common law remedies described therein, and the ADR Provisions shall control with respect to every Dispute with a Declarant Party related to or arising out of the Lots or the Common Area. SAID LIMITED WARRANTY, WHEN ISSUED, SHALL BE THE ONLY WARRANTY, EXPRESS, IMPLIED OR STATUTORY, MADE BY DECLARANT WITH REGARD TO THE LOTS AND COMMON AREA AND DECLARANT DISCLAIMS ALL OTHER WARRANTIES AS MORE FULLY SET FORTH IN **EXHIBIT J** TO THIS DECLARATION. This Section applies to a particular Dispute only to the extent a Limited Warranty is actually issued and in effect at the time of that particular Dispute with respect to the particular Lots or Common Area at issue. This Section shall not be amended without the written consent of Declarant, and it shall not apply to Neighborhood Builder-conveyed Common Area or to Owners who purchase a Lot from a Neighborhood Builder, if any.

12.6 COVENANT REGARDING PROCEEDS. If the Association or any Owner prevails in a Dispute or Neighborhood Builder Dispute, and the judgment thereon or settlement terms thereof includes a monetary award, then the proceeds of the award shall be first applied to the remediation of the condition that gave rise to the Dispute or Neighborhood Builder Dispute.

12.7 NEIGHBORHOOD BUILDER DISPUTES. Notwithstanding the foregoing, any Fix-It Law Claim or other controversy where the parties are limited to one or more Owners, on the one hand, and a Neighborhood Builder (or any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of Neighborhood Builder), on the other hand, shall be considered a "**Neighborhood Builder Dispute.**" A Neighborhood Builder Dispute shall not be considered a "Dispute" within the meaning of the term used in Section 12.4 and **Exhibit H**, so long as (i) neither Declarant nor the Association are parties, and (ii) the Neighborhood Builder has elected to institute its own alternative dispute resolution procedure for the resolution of Neighborhood Builder Disputes, and (iii) the Neighborhood Builder has given notice of its election in a written instrument Recorded against the Neighborhood Builder's Lots, all in accordance with the requirements of the Fix-It Law. All Neighborhood Builder Disputes shall be resolved pursuant to whatever procedure is elected by the Neighborhood Builder in lieu of Declarant's process described in Section 12.4.1; provided, however, that a Neighborhood Builder's failure to make the required election of an alternative process as described in this Section shall subject all Neighborhood Builder Disputes to resolution in accordance with ADR Provisions of **Exhibit H** and the process described in Sections 12.4.1 through 12.4.4. Furthermore, notwithstanding any of the foregoing, any controversy between Declarant and a Neighborhood Builder which relates to the sale of all or a portion of the Community or Annexable Territory to the Neighborhood Builder and which controversy is governed by dispute resolution procedures set forth in the applicable land sale agreement between Declarant and such Neighborhood Builder, shall not be considered a "Dispute" within the meaning of the term used in Section 12.4 and **Exhibit H**.

12.8 APPROVAL OF AMENDMENTS. No amendment may be made to Sections 12.4, 12.5, 12.6, 12.7, 12.8, or 12.9 without the prior written approval of Declarant.

12.9 **NO ENHANCED PROTECTION AGREEMENT.** No language contained in this Declaration or any Supplemental Declaration shall constitute, or be interpreted to constitute, an enhanced protection agreement ("*EPA*"), as defined in Section 901 of the California Civil Code. Further, no express or implied representations or warranties made by Declarant in any other writing are intended to constitute, or to be interpreted to constitute, an EPA.

ARTICLE XIII DURATION AND AMENDMENT

13.1 **DURATION.** ~~This Declaration shall continue in full force for a minimum term of sixty (60) years from the date of its Recordation unless a declaration of termination satisfying the requirements of an amendment to this Declaration established in Section 13.2 is Recorded.~~

13.2 **TERMINATION AND AMENDMENT.**

13.2.1 **Amendment Approval.** Notice of the subject matter of a proposed amendment to this Declaration, a Notice of Addition or a Supplemental Declaration in reasonably detailed form must be included in the notice of any Association meeting or election at which a proposed amendment is to be considered. To be effective, a proposed amendment (other than amendment or termination by Declarant as described in Section 13.2.7(a) or minor corrections by Declarant or by the Board, as described in Sections 13.2.7(b) or 13.2.8 respectively) must be adopted by the vote, in person or by proxy, or written consent of Owners representing not less than (a) sixty-seven percent (67%) of the voting power of each Class of the Association and (b) sixty-seven percent (67%) of the Association's voting power represented by Owners other than Declarant. If, however, the provision being considered for amendment requires amendment approval by a higher percentage of the voting power than that specified in this Section, then the proposed amendment shall not be adopted unless approved by such higher percentage of the voting power. In addition, any amendment that affects the extent, usage, or maintenance of the Common Area or CSA Maintenance Area or that affects any Condition of Approval shall require the prior written approval of the Planning Director of the County of Riverside or the County's successor-in-interest.

13.2.2 **Mortgagee Consent.** In addition to the consents required by Section 13.2.1, the Mortgagees of fifty-one percent (51%) of the First Mortgages on all the Lots in the Community who have requested the Association notify them of proposed action requiring the consent of a specified percentage of First Mortgagees must approve any amendment which is of a material nature, as follows:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Mortgagees, insurers or guarantors of First Mortgages.

(b) Any amendment which would require a Mortgagee after it has acquired a Lot through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing before such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Lot not being separately assessed for tax purposes.

(d) Any amendment relating to (i) the insurance provisions in Article 8, (ii) the application of insurance proceeds in Article 9, or (iii) the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would restrict an Owner's right to sell or transfer his or her Lot.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Lot is proposed to be transferred.

13.2.3 Amendment of Fix-It Law Provisions. Except for any amendment made by Declarant as authorized in Section 13.2.7, neither this Section 13.2.3 nor Sections 1.1.40, 1.1.41, 1.1.52, 2.1.1, 2.1.2, 2.1.3, 3.36, 4.2.11, 4.5, 12.1.7, 12.4, 13.2.7, 13.2.8 or 15.6, nor *Exhibits H, I and J* may be amended without the prior written approval of Declarant until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Fix-It Law (including tolling periods).

13.2.4 Termination Approval. Termination of this Declaration requires approval of the Owners as provided in Section 13.2.1, and until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Fix-It Law (including tolling periods), the prior written approval of Declarant. In addition, termination of the Declaration requires the approval of the County in accordance with Article XVII of this Declaration.

13.2.5 Notice to Mortgagees. Each Mortgagee of a First Mortgage on a Lot in the Community which receives proper written notice of a proposed amendment or termination of this Declaration, any Notice of Addition or any Supplemental Declaration with a return receipt requested is deemed to have approved the amendment or termination if the Mortgagee fails to submit a response to the notice within sixty (60) days after the Mortgagee receives the notice.

13.2.6 Certificate. A copy of each amendment must be certified by at least two (2) Association officers. The amendment becomes effective when a Certificate of Amendment is Recorded. The certificate, signed and sworn to by two (2) Association officers that the requisite number of Owners and Mortgagees have approved the amendment, when Recorded, is conclusive evidence of that fact. The Association shall keep in its files for at least four (4) years the record of all such approvals. The certificate reflecting any termination or amendment which requires the written consent of any of the Mortgagees of First Mortgages must include a certification that the requisite approval of such First Mortgagees was obtained.

13.2.7 Amendment or Termination by Declarant.

(a) **Before First Closing.** Notwithstanding any other provisions in this Article, (i) Declarant may unilaterally amend or terminate this Declaration for any purpose, until the first Close of Escrow in the Community, and (ii) Declarant, or a Neighborhood Builder with Declarant's consent, may unilaterally amend or terminate a Notice of Addition or Supplemental Declaration for any purpose, until the first Close of Escrow in the real property affected by the Notice of Addition or Supplemental Declaration to be amended or terminated.

Amendment or termination shall not be effective until Declarant (or Declarant and Neighborhood Builder, if applicable) has Recorded in the Official Records an instrument signed and acknowledged by Declarant (or Declarant and Neighborhood Builder, if applicable). In addition, any amendment that affects the extent, usage, or maintenance of the Common Area or CSA Maintenance Area or that affects any Condition of Approval shall require the prior written approval of the Planning Director of the County of Riverside or the County's successor-in-interest.

(b) **Minor Corrections.** Notwithstanding any other provisions of this Article, Declarant (as long as Declarant owns any portion of the Community or the Annexable Territory) may unilaterally amend this Declaration, a Notice of Addition or a Supplemental Declaration by Recording a written instrument signed by Declarant (and Neighborhood Builder, if concerning a Neighborhood Builder Lot) to: (1) conform this Declaration or any Notice of Addition or Supplemental Declaration to the rules, regulations or requirements of FHFA, VA, FHA, CalBRE, Fannie Mae, Ginnie Mae, Freddie Mac, or the County, (2) amend, replace or substitute any exhibit to correct typographical or engineering errors, (3) include any exhibit that was inadvertently omitted at the time of Recording, (4) comply with any County, State or Federal laws or regulations, (5) correct typographical errors, (6) supplement this Declaration with provisions which pertain to rights and obligations of Declarant, the Neighborhood Builders, the Association or Owners arising under the Fix-It Law, (7) re-Phase any portion of the Community, and (8) change any exhibit or portion of an exhibit to conform to as-built conditions. In addition, any amendment that affects the extent, usage, or maintenance of the Common Area or CSA Maintenance Area or that affects any Condition of Approval shall require the prior written approval of the Planning Director of the County of Riverside or the County's successor-in-interest.

Nothing in this Section 13.2.7 may be amended or terminated without the prior written approval of Declarant and the Planning Director of the County of Riverside or the County's successor-in-interest.

13.2.8 Minor Corrections by the Board. The Board may amend this Declaration, a Notice of Addition or a Supplemental Declaration for the reasons stated in parts (2), (3), (4), (5), or (8) of Section 13.2.7(b) above by Recording a written instrument signed by two officers of the Association certifying that the Board approved the amendment for the purposes described therein. However, until the end of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Fix-It Law (including tolling periods), the Board must obtain the prior written approval of Declarant to any amendment approved by the Board, or any other amendment by the Board or Association that affects the rights of Declarant under the Fix-It Law, this Declaration or any Supplemental Declaration or Notice of Addition, or for any amendment by the Board concerning matters discussed in Article 3 or Article 15.

ARTICLE XIV GENERAL PROVISIONS

14.1 MERGERS OR CONSOLIDATIONS. In a merger or consolidation of the Association with another association, the property, rights and obligations of the Association may,

by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community, together with the covenants and restrictions established on any other property, as one (1) plan.

14.2 **NO PUBLIC RIGHT OR DEDICATION.** Nothing in this Declaration is a gift or dedication of all or any part of the Community to the public, or for any public use.

14.3 **NOTICES.** Except as otherwise provided in this Declaration, 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 (1) or more co-Owners, or any general partner of a partnership owning a Lot, constitutes delivery to all Owners. Personal delivery of such notice to any officer or agent for the service of process on a corporation or limited liability company constitutes delivery to the corporation or limited liability company. Such notice may also 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 (3) business days after the time of such mailing, except for notice of a meeting of Owners 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 and circulated to all Owners.

14.4 **CONSTRUCTIVE NOTICE AND ACCEPTANCE.** Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Community consents and agrees to every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to these restrictions is in the instrument by which such Person acquired an interest in the Community. As soon as practicable before sale or transfer of title to a Lot or other separate interest in the Community or execution of a real property sales contract therefor, the Owner of the Lot or other separate interest shall provide to the purchaser copies of the Governing Documents listed in California Civil Code Section 4525 and its successor statutes.

ARTICLE XV DECLARANT'S RIGHTS AND RESERVATIONS

If there is a conflict between any other portion of the Governing Documents and this Article, this Article shall control.

15.1 **CONSTRUCTION RIGHTS.** Until Declarant and Neighborhood Builders no longer own any portion of the Community or the Annexable Territory, Declarant and Neighborhood Builders have the right, without obtaining the approval of the Association, to (a) subdivide or re-subdivide the portions of the Community owned by Declarant and Neighborhood Builders, (b) complete or modify Improvements in the Common Area, or in any portion of the Community or Annexable Territory that is owned or leased solely or partially by

Declarant or Neighborhood Builders, (c) alter Improvements and Declarant's or Neighborhood Builder's construction plans and designs, (d) modify Declarant's or Neighborhood Builder's development plan for the Community and the Annexable Territory, including designating and redesignating Phases, reshaping the Lots and Common Area, and constructing dwellings of larger or smaller sizes, values, and of different types, (e) modify, extend, postpone or terminate the annexation of any or all of the Annexable Territory, or the completion of the Community, for any purpose, including changed economic conditions, changes in Declarant's or Neighborhood Builders business plans or other factors determined by Declarant in its sole discretion, and (f) construct additional or different Improvements, all as Declarant (or Neighborhood Builder with Declarant's consent) considers advisable in the course of development of the Community. Declarant and Neighborhood Builders may temporarily erect barriers, close off and restrict access to portions of the Common Area as reasonably necessary to allow Declarant or a Neighborhood Builder to exercise the rights reserved in this Section so long as an Owner's access to that Owner's Lot is not eliminated.

15.2 SALES AND MARKETING RIGHTS. Declarant and Neighborhood Builders shall have the following rights related to sales and marketing, all of which may be exercised unilaterally by Declarant or Neighborhood Builders in Declarant's sole discretion. The rights reserved in this Section will terminate on the date of the last Close of Escrow for sale of a Lot in the Community and Annexable Territory.

15.2.1 Marketing and Sales Facilities. Declarant's and Neighborhood Builder's rights under this Declaration include the right to install and maintain such structures, displays, signs, billboards, flags and sales offices in the Community, and the right to use any land, Lots or mobile homes owned or leased by Declarant or Neighborhood Builder in the Community for model home purposes, or for the operation of real estate sales offices or leasing offices, all as may be reasonably necessary to conduct the business of completing construction and disposing of the Lots by sale, resale, lease or otherwise.

15.2.2 Use of Common Area. Declarant and Neighborhood Builders reserve for their benefit, and for the benefit of their prospective purchasers of Lots who are entitled to the nonexclusive use of the Common Area owned in fee simple by the Association, without further cost for access, ingress, egress, use or enjoyment, the right to (a) show the Community to prospective purchasers, (b) dispose of the Community as provided in this Declaration, and (c) develop and sell the Annexable Territory. Declarant, Neighborhood Builder, their employees, agents and prospective purchasers are also entitled to the nonexclusive use of walkways, pathways, and trails for ingress, egress as necessary in connection with the marketing and sale of the Lots. Neither Declarant, Neighborhood Builders, nor their employees, agents nor prospective purchasers shall make any use of the Common Area that will unreasonably interfere with the use and enjoyment thereof by the Owners.

15.3 CREATING ADDITIONAL EASEMENTS. At any time before the Close of Escrow for a Lot, Declarant or a Neighborhood Builder, as applicable, hereby reserves the right to establish on that Lot additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as Declarant or a Neighborhood Builder, as applicable, determines are reasonably necessary to the proper development and disposal of the Community and Annexable Territory.

15.4 **ARCHITECTURAL RIGHTS.** Declarant, Neighborhood Builders and any Person to whom Declarant may assign all or a portion of its exemption under this Declaration need not seek or obtain Design Review Committee approval of any Improvements constructed anywhere on the Community by Declarant, Neighborhood Builder or such assignee. Declarant may exclude portions of the Community from jurisdiction of the Design Review Committee in the applicable Notice of Addition or Supplemental Declaration. Declarant, may, at its option, establish an additional design review committee for any area exempted from the jurisdiction of the Design Review Committee.

~~15.5 **DECLARANT AND NEIGHBORHOOD BUILDER EXEMPTION.**~~
Declarant and each Neighborhood Builder is exempt from the application of Article 2 of this Declaration and from all other restrictions on the use and enjoyment of real property and all maintenance covenants that are established for Owners under this Declaration, or in a Notice of Addition, a Supplemental Declaration or in any other Governing Documents, except to the extent that a particular provision expressly includes Declarant or a Neighborhood Builder among the parties covered thereby.

15.6 **ASSIGNMENT OF RIGHTS.** Declarant may assign any or all of its rights and exemptions under this Article 15, and any other Declarant rights, exemptions, appointment powers, veto powers or easements in the Governing Documents to any successor in interest to any portion of Declarant's interest in the Community by a Recorded written assignment.

15.7 **AMENDMENT.** No amendment may be made to this Article without the prior written approval of Declarant.

15.8 **POWER OF ATTORNEY.** Each Owner of a Lot in the Community, by accepting a deed to a Lot, shall be deemed to have (a) agreed and acknowledged that the Owners own no interest in the Annexable Territory which may be developed, if at all, by Declarant in its sole and absolute discretion and (b) constituted and irrevocably appointed Declarant, for so long as Declarant owns all or any portion of the Annexable Territory, as his Attorney-in-Fact, for himself and each of his Mortgagees, optionees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and thereby to have conveyed a Power of Attorney coupled with an interest to Declarant as his Attorney in Fact to prepare, execute, acknowledge and Record any instrument for all or any portion of the Annexable Territory. However, nothing set forth herein shall be deemed or construed as an agreement by Declarant that any Owner shall be entitled to any participation in or discretion over the preparation and Recordation of an instrument for all or any portion of the Annexable Territory. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

15.9 **PARTICIPATION IN ASSOCIATION.** The Association shall provide Declarant with written notice of the transfer of any Lot and all notices and other documents to which a Mortgagee is entitled pursuant to this Declaration, provided that Declarant shall not be required to make written request for such notices and other documents. Commencing on the date on which Declarant and Neighborhood Builders no longer have a representative on the Board,

the Association shall provide Declarant with written notice of all meetings of the Board that any Owner is entitled to attend (each, an **"Open Meeting"**) as if Declarant were an Owner, and Declarant shall be entitled to have a representative (**"Declarant's Representative"**) present at all Open Meetings. However, the Board has the power to withhold information from the Declarant's Representative and to exclude the Declarant's Representative from any Open Meeting or portion thereof if, in the good faith judgment of the Board, access to such information or attendance at the Open Meeting would adversely affect the attorney-client privilege between the Association and its counsel or if, in the good faith judgment of the Board, access to such information or attendance at an Open Meeting would not be in the best interest of the Association or the Owners. ~~The Declarant's Representative shall not be entitled to attend executive sessions of the Board.~~ The Declarant's Representative will attend any Open Meeting it is permitted to attend in an observer capacity only, and it shall not have any right to vote on matters coming before the Board or Owners. Declarant's Representative shall be entitled to receive copies of the minutes of all Open Meetings. The Declarant's rights to receive written notice of meetings and to have a Declarant's Representative present at such meeting shall continue until the later of (i) the date that is ten (10) years after the first Close of Escrow in the Community, or (ii) the date of expiration of all applicable statutes of limitations or repose for the filing of a complaint or suit or other legal remedies against Declarant or a Neighborhood Builder under the Fix-It Law (including any tolling periods).

15.10 DECLARANT APPROVAL OF ACTIONS.

15.10.1 **General Rights.** Until Declarant and Neighborhood Builders no longer own a portion of the Community or the Annexable Territory, Declarant's prior written approval is required for any amendment to the Governing Documents which would impair or diminish Declarant's or a Neighborhood Builder's right to complete the Community or the Annexable Territory or sell or lease dwellings therein.

15.10.2 **Limit on Actions.** Until the expiration of all applicable statutes of limitations or repose for the filing of a complaint or suit or other legal remedies against Declarant and each Neighborhood Builder under the Fix-It Law (including any tolling periods), the following actions, before being undertaken by the Association, must first be approved in writing by Declarant:

- (a) Any amendment or action requiring the approval of First Mortgagees;
- (b) The annexation to the Community of real property other than the Annexable Territory pursuant to Section 16.3;
- (c) The levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Common Area by Declarant or a Neighborhood Builder;
- (d) Any significant reduction of Association maintenance or other services; or

(e) Any modification or termination of any provision of the Governing Documents benefiting Declarant or a Neighborhood Builder.

15.11 **MARKETING NAME.** The Community shall be marketed under the general name "*Terracina*." Declarant may change the marketing name of the Community. Declarant or a Neighborhood Builder may designate a different marketing name for any Phase at any time in Declarant's sole discretion. Declarant or the applicable Neighborhood Builder shall notify the CalBRE of any change in or addition to the marketing name or names of the Community or of any Phase.

ARTICLE XVI ANNEXATION OF ADDITIONAL PROPERTY

Additional real property may be annexed to the Community and become subject to this Declaration by any of the following methods:

16.1 **ADDITIONS BY DECLARANT.** Declarant (or a Neighborhood Builder with Declarant's consent) may add the Annexable Territory to the Community and bring such added territory under the general plan of this Declaration without the approval of the Association, the Board, or Owners, so long as Declarant or any Neighborhood Builder owns any portion of the Annexable Territory. No amendment may be made to this Section 16.1 without the prior written approval of Declarant.

16.2 **MANDATORY ANNEXABLE TERRITORY.** This Section 16.2 is included pursuant to the County's requirements for approval of the Community. The Mandatory Annexable Territory shall in the future be added to the Community and brought under the general plan of this Declaration (the "*Mandatory Annexation*"). The Mandatory Annexation for all or any portion of the Mandatory Annexable Territory shall not require the approval of the Association, the Board, or Owners, so long as Declarant or any Neighborhood Builder owns any portion of the Mandatory Annexable Territory. No Close of Escrow for the sale of a residential Lot located in the Mandatory Annexable Territory may occur prior to the Mandatory Annexation of such residential Lot. The Mandatory Annexation of all or any portion of Lots 205 to 211, inclusive, and Lots 213 to 224, inclusive, of Tract No. 31597 shall occur prior to or concurrently with the fee conveyance of any such Lot to the County or County Service Area. The Mandatory Annexation of the Access Parcels shall occur no later than the last Close of Escrow for the sale of all residential Lots located in Tract No. 31597. No amendment may be made to this Section 16.2 without the prior written approval of Declarant and the Planning Director of the County or the County's successor-in-interest. The County may require Permissible Annexable Territory to be designated as Mandatory Annexable Territory in connection with future map approvals, which shall be set forth in a Supplemental Declaration.

16.3 **OTHER ADDITIONS.** Additional real property may be annexed to the Community and brought under the general plan of this Declaration upon the approval by vote or written consent of Members entitled to exercise no less than two-thirds (2/3) of the Association's voting power.

16.4 RIGHTS AND OBLIGATIONS-ADDED TERRITORY. Subject to the provisions of Section 16.5, when a Notice of Addition containing the provisions required by Section 16.5 is Recorded, all provisions in this Declaration will apply to the real property described in such Notice of Addition (the "*Added Territory*") in the same manner as if the real property were originally covered by this Declaration. Thereafter, the rights, powers and responsibilities of the Owners, lessees and occupants of Lots in the Added Territory, as well as in the property originally subject to this Declaration, will be the same as if the Added Territory were originally covered by this Declaration. After the first day of the month following the first Close of Escrow in the Added Territory, the Owners of Lots located in the Added Territory shall share in the payment of Assessments to the Association to meet Common Expenses of the Community. Voting rights attributable to the Lots in the Added Territory may not be exercised until Annual Assessments have commenced on such Lots.

16.5 NOTICE OF ADDITION. The additions authorized under Sections 16.1, 16.2 and 16.3 must be made by Recording in Official Records a Notice of Addition against the real property to be added to the coverage of this Declaration. The Notice of Addition must (a) reference by instrument number this Declaration and the date of its Recordation, (b) describe with specificity the Added Territory, (c) state that this Declaration shall apply to the Added Territory, (d) describe the land use designations in the Added Territory. The Notice of Addition for any addition under Sections 16.1 or 16.2 must be signed by Declarant, and the applicable Neighborhood Builder, if any. The Notice of Addition for any addition under Section 16.3 must be signed by at least two (2) officers of the Association to certify that the Owner approval required under Section 16.3 was obtained. On Recordation of the Notice of Addition, the Added Territory will be annexed to and constitute a part of the Community and it will become subject to this Declaration. Subject to Section 16.4, the Owners of Lots in the Added Territory will automatically acquire Membership in the Association. No Notice of Addition or Supplemental Declaration may revoke the covenants, conditions, restrictions, reservation of easements, or equitable servitudes in this Declaration as the same pertain to the real property originally covered by this Declaration.

16.6 DE-ANNEXATION AND AMENDMENT. In addition to the rights to amend or terminate a Notice of Addition granted elsewhere in this Declaration or in a Notice of Addition, Declarant (or a Neighborhood Builder with Declarant's consent) may also amend a Notice of Addition for purposes other than those described in Section 13.2.7 or delete all or a portion of a Phase from coverage of this Declaration and the Association's jurisdiction so long as Declarant or a Neighborhood Builder is the owner of all of such Phase and provided that (a) an amending instrument or a Notice of Deletion of Territory, as applicable, is Recorded in the same manner as the applicable Notice of Addition was Recorded, (b) Declarant or the applicable Neighborhood Builder has not exercised any Association vote with respect to any portion of such Phase, (c) Assessments have not yet commenced with respect to any portion of such Phase, (d) Close of Escrow has not occurred for the sale of any Lot in such Phase, and (e) the Association has not made any expenditures or incurred any obligations with respect to any portion of such Phase. Notwithstanding the foregoing, no portion of a Phase may be deleted from coverage of this Declaration and the Association's jurisdiction without the prior written consent of the Planning Director of the County of Riverside or the County's successor-in-interest. No amendment may be made to this Section 16.6 without the prior written approval of

Declarant and the Planning Director of the County of Riverside or the County's successor-in-interest.

ARTICLE XVII
RIVERSIDE COUNTY AND 404 PERMIT REQUIREMENTS

17.1 **COUNTY REQUIRED PROVISION.** The following provision is included in accordance with the County's requirements for the Community. The "property owners' association" referred to in the provision is defined in this Declaration as the Association:

"Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

The property owners' association established herein shall unconditionally accept from the County of Riverside, upon the County's demand, title to all or any part of the CSA Maintenance Area or Common Area, more particularly described in this Declaration, a Supplemental Declaration or Notice of Addition. Such acceptance shall be through the president of the property owners' association, who shall be authorized to execute any documents required to facilitate transfer of the CSA Maintenance Area or Common Area. The decision to require that the property owners' association to unconditionally accept title to the CSA Maintenance Area or Common Area shall be at the sole discretion of the County of Riverside.

In the event that the CSA Maintenance Area or Common Area, or any part thereof, is conveyed to the property owners' association, the association, thereafter, shall own such area, shall manage and continuously maintain the CSA Maintenance Area or Common Area, and shall not sell or transfer the CSA Maintenance Area or Common Area, or any part thereof, absent the prior written consent of the Planning Department of the County of Riverside or the County's successor-in-interest. The property owners' association shall have the right to assess the owners of each individual lot or unit for the reasonable cost of maintaining such CSA Maintenance Area or Common Area, and shall have the right to lien the property of any such owner who defaults in the payment of a maintenance assessment. An assessment lien, once created, shall be prior to all other liens recorded subsequent to the notice of assessment or other document creating the assessment lien.

This Declaration shall not be terminated, "substantially" amended, or property deannexed therefrom absent the prior written consent of the Planning Director of the County of Riverside or the County's successor-in-interest. A proposed amendment shall be considered "substantial" if it affects the extent, usage, or

maintenance of the CSA Maintenance Area or Common Area established pursuant to the Declaration.

In the event of any conflict between any conflict between this Declaration and the Articles of Incorporation, the Bylaws, or the property owners' association Rules and Regulations, if any, this Declaration shall control."

17.2 **EXTERIOR LIGHTING.** The Community is subject to restrictions for the benefit of Mount Palomar Observatory, which are set forth in "County Ordinance No. 655, an Ordinance of the County of Riverside Regulating Light Pollution" ("Ordinance 655"). All exterior lighting systems and fixtures in the Community must comply with the restrictions in Ordinance 655 applicable to Zone B. General requirements of Ordinance 655 include the designation of low-pressure sodium lamps as a preferred illuminating source, shielding of lighting to minimize light spill into the night sky and onto adjacent properties, prohibiting certain light sources entirely, and limiting the hours of operation for all nonexempt light sources. A copy of Ordinance 655 is available on the County website: <http://www.rivcocob.org/ords/600/655.htm>

17.3 **BEST MANAGEMENT PRACTICES.** The Association shall ensure maintenance of all treatment control best management practices ("**BMPs**") in perpetuity. In addition to the BMPs addressed in Section 2.1.6 of this Declaration, post-construction BMPs described in the Water Quality Management Plan ("**WQMP**") shall treat Pollutants of Concern to reduce pollutant transport and/or runoff prior to discharge to a surface water body.

The approved WQMP shall be binding upon the heirs, successors, executors, administrators and assigns of the Owner and any other present or future interest holders or estate holders in the Community. As used in this section, the term "Owner" shall include not only the present Owner, but also its heirs, successors in interest and in title to property in the Community, executors, administrators, and assigns. Owner shall notify any successor to title of all or part of property in the Community about the existence of the WQMP. Owner shall provide such notice prior to such successor obtaining an interest in all or part of property in the Community.

17.4 **LANDSCAPING RESTRICTIONS.** Landscaping located adjacent to the biological conservation easement on site shall not include nonnative plant species that may be invasive to native habitats. Nonnative plant species not be to used include any species listed on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" List.

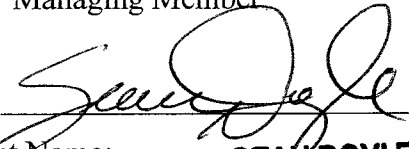
[SIGNATURES ON FOLLOWING PAGE]

**[SIGNATURE PAGE TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS]**

This Declaration is dated for identification purposes September 24, 2015

LS TERRACINA, LLC,
a Delaware limited liability company

By: Standard Pacific Corp.,
a Delaware corporation
Its: Managing Member

By: 
Print Name: SEAN DOYLE
Title: AUTHORIZED REPRESENTATIVE

Declarant

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 Riverside

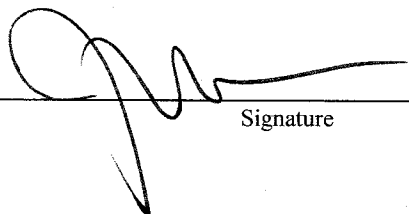
On September 24, 2015, before me, Jennifer R. Johnson, Notary Public
(here insert name and title of the officer)

personally appeared Sean Doyle

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.

 (Seal)
Signature

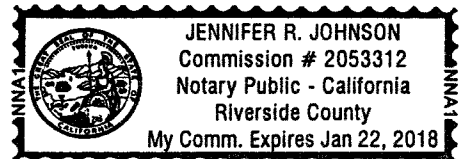


EXHIBIT A

LEGAL DESCRIPTION OF MANDATORY ANNEXABLE TERRITORY

All that certain real property located in the unincorporated territory of the County of Riverside, State of California, more particularly described as follows:

Lots 1 to 117, inclusive, Lots 123 to 130, inclusive, Lots 134 to 211, inclusive, ~~Lots 213 to 224, inclusive of Tract No. 31597, as shown on a Subdivision Map filed on _____, 2015, in Book ___, at Pages __ to __, inclusive, of Maps, in the Office of the Riverside County Recorder.~~

All of that certain real property located in Rancho Little Temecula, State of California, more particularly described as follows:

Being portions of Lot 75, of Tract No. 23066-4, as filed in Book 261, Page(s) 29 through 37, inclusive, of Map Books, and portions of Parcel "B" of Notice of Lot Line Adjustment No. 4001, recorded July 16, 1998 as Instrument No. 294880 of Official Records, Records of Riverside County, State of California, being portions of Parcels G and H in that certain document recorded January 4, 2013 as Instrument No. 2013-0006132 of Official Records, Records of Riverside County, State of California, lying within Rancho Little Temecula, more particularly described as follows:

BEING Lot 75 of Tract 23066-4, as per map recorded in Book 261, Pages 29 through 37, inclusive, of Maps, and Parcel B of Notice of Lot Line Adjustment No. 4001, recorded on July 16, 1998 as Instrument No. 294880 of Official Records, being Lot 76 of Tract No. 23066-4, in the County of Riverside, State of California, as per map recorded in Book 261, Pages 29 through 37, inclusive, of Maps, Records of Riverside County, California.

EXCEPTING THEREFROM the following described parcel of land:

BEGINNING at the southeast corner of Lot 24 of said Tract No. 23066-4;

thence along the east line of said Lot 24 North 09°00'18" West, 100.42 feet to the southerly Right of Way line of Anasazi Drive of said Tract No. 23066-4;

thence along said southerly Right of Way line North 80°59'42" East, 5.00 feet;

thence leaving said southerly Right of Way line South 09°00'18" East, 97.75 feet to the southeasterly line of said Lot 76;

[Exhibit A Continued on Following Page]

thence along said southeasterly line South 53°06'24" West, 5.66 feet to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM that certain parcel of land as described in the Offer of Dedication – Road Purposes to the City of Temecula, recorded August 6, 2014 as Instrument No. 2014-0297546 of Official Records, Records of Riverside County, California.

EXHIBIT B

LEGAL DESCRIPTION OF PERMISSIBLE ANNEXABLE TERRITORY

All that certain real property located in the unincorporated territory of the County of Riverside, State of California, more particularly described as follows:

Parcel A.: (917-260-047-8)

Parcel 3 of Parcel Map 14649, as shown by Map on file in Book 78 Page 93, of Parcel Maps, Records of Riverside County, California.

Parcel B: (917-260-048-9)

Parcel 4 of Parcel Map 14649, as shown by Map on file in Book 78 Page 93 of Parcel Maps, Records of Riverside County, California

Parcel C: (917-260-044-5)

Parcel 4 of Parcel Map 14825, as shown by Map on file in Book 78 Page 25 of Parcel Maps, Records of Riverside County, California.

Parcel D: (917-260-054-4)

Parcel 3 of Parcel Map No. 7838, as shown by Map on file in Book 31 Page 97 and 98 of Parcel Maps, Records of Riverside County, California.

Parcel E: (917-260-055-5)

Parcel 4 of Parcel Map No. 7838, as shown by Map on file in Book 31 Pages 97 and 98 of Parcel Maps, Records of Riverside County, California.

Parcel F: (917-260-086-3, 917-260-066-5, 917-260-067-6 and 917-260-068-7)

Parcels 1, 2, 3 and 4 of Parcel Map No. 20921, as shown by Map on file in Book 136 Page(s) 96 and 97 of Parcel Maps, Records of Riverside County, California.

Parcel G: (917-260-045-6)

Parcel 1 of Parcel Map No. 14649, as shown by Map on file in Book 78 Page(s) 93 of Parcel Maps, Records of Riverside County, California.

EXHIBIT C

ARTICLES OF INCORPORATION OF THE ASSOCIATION

**ARTICLES OF INCORPORATION
OF
TERRACINA COMMUNITY ASSOCIATION**

ONE: The name of this corporation is TERRACINA COMMUNITY ASSOCIATION (the "*Corporation*").

TWO: This Corporation is a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. The purpose of this Corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law.

THREE: The Corporation's initial agent for service of process is Stephanie Fabbri Carter, whose business address is LS Terracina, LLC, 355 East Rincon Street, Suite 300, Corona, CA 92879.

FOUR: The Corporation's street and mailing address is 355 East Rincon Street, Suite 300, Corona, CA 92879.

FIVE: The Corporation is organized and operated exclusively as a homeowner's association within the meaning of Section 23701t of the California Revenue and Taxation Code and Section 528 of the Internal Revenue Code, and it shall have and exercise any and all powers, rights and privileges which a corporation organized under the California Nonprofit Mutual Benefit Corporation Law may now or hereafter have or exercise, provided that the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of the Corporation, which is to operate a homeowners association and to manage a common interest development under the Davis-Stirling Common Interest Development Act. The Corporation does not have a corporate office. The common interest development is near the intersection of Monte Verde Drive and Woolpert Lane, in the unincorporated area of Riverside County, California 92592-0000.

SIX: The classes of Membership and the voting and other rights and privileges of Members are set forth in the Bylaws. So long as two classes of Membership make up the voting power of the Corporation, the amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, and (ii) Members representing a bare majority of the voting power of each class of Members. After conversion of the Class B Membership to Class A Membership, the amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, (ii) Members representing a bare majority of the total voting power of the Members, and (iii) Members representing a bare majority of the voting power of the Members other than the subdivider of the Community. Notwithstanding the foregoing, the percentage of voting power required to amend a specific clause of these Articles shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

SEVEN: The Corporation has no managing agent.

The undersigned, who is the incorporator of the Corporation, has executed these Articles of Incorporation on _____, 20____.

Stephanie Fabbri Carter, Incorporator

EXHIBIT D
BYLAWS OF THE ASSOCIATION

**BYLAWS
OF
TERRACINA COMMUNITY ASSOCIATION**

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BYLAWS
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TERRACINA COMMUNITY ASSOCIATION

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CERTIFICATE OF SECRETARY

BYLAWS
OF
TERRACINA COMMUNITY ASSOCIATION

ARTICLE I
PLAN OF OWNERSHIP

1.1 **DEFINITIONS AND INTERPRETATION.** Unless otherwise provided in these Bylaws, the capitalized terms used in these Bylaws have the meanings they are given in the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Terracina (the "**Declaration**"), which was Recorded in the Official Records of the County against the Community. These Bylaws shall be interpreted in accordance with Section 1.2 of the Declaration. Capitalized terms not defined herein shall have the meaning provided in the Declaration.

1.2 **NAME AND PRINCIPAL OFFICE.** The name of the Association is Terracina Community Association. The principal office of the Association, if any, shall be located in the County or such other location as the Board may designate.

1.3 **APPLICATION.** These Bylaws apply to the residential planned development known as Terracina, located in the County. All Persons who use the facilities of the Community in any manner, are subject to the regulations in these Bylaws and in the Declaration. Use of any Lot in the Community signifies acceptance and ratification of these Bylaws.

ARTICLE II
BOARD OF DIRECTORS

2.1 **NUMBER OF DIRECTORS.**

2.1.1 **Interim Directors.** Until the first annual meeting of the Owners, the Association's property, business and affairs shall be governed and managed by a Board of Directors composed of three (3) persons appointed by Declarant to serve as interim Directors until Directors are elected at the first annual meeting of the Owners.

2.1.2 **Elected Directors.** Beginning with the first annual meeting of the Owners, the Association's property, business and affairs shall be governed and managed by a Board of Directors composed of three (3) persons elected or appointed at the first annual meeting. The authorized number of Directors may be changed by a duly adopted amendment to these Bylaws.

2.2 **QUALIFICATIONS FOR HOLDING OFFICE.** Each Director, except for those initially appointed by Declarant to serve as interim Directors until the first annual meeting, must be (a) an Owner who meets the qualifications in this Section 2.2 or, (b) an agent of Declarant or an agent of a Neighborhood Builder (for so long as Declarant or a Neighborhood

Builder owns any portion of the Community), or (c) appointed to office by exercise of the Board Appointment Right (as defined in Section 4.4.4 of the Declaration).

2.2.1 **Candidacy Requirements for Owners.** Owners who meet the following criteria are qualified to be elected to the Board of Directors:

(a) The Owner must be in compliance with the Governing Documents for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors. To be in compliance, the Owner must correct, within five (5) days of receipt of notice, any violation of the Governing Documents for which the Owner has been determined to be responsible pursuant to applicable due process requirements;

(b) The Owner must be current in the payment of all Assessments for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors; and

(c) The Owner must not be related by blood or marriage to or reside in the same household with any other Board member.

2.2.2 **Incumbent Requirements.** To remain qualified to serve on the Board of Directors, an Owner who has been elected to the Board of Directors must:

(a) Not be absent from more than three (3) consecutive regularly scheduled meetings of the Board;

(b) Attend at least seventy-five percent (75%) of the Board meetings held during the year and attend the entire meeting each time;

(c) Comply with every duly approved action of the Board;

(d) Comply with the Governing Documents and correct, within five (5) days after receipt of notice, any violation of the Governing Documents for which that Director has been determined to be responsible pursuant to applicable due process requirements;

(e) Not be more than three (3) months in arrears in the payment of any Assessment;

(f) Exhibit respect, professionalism and courteous behavior to other Directors, Owners, committee members, vendors, the Manager and its staff, and any other Persons associated with or retained by the Association;

(g) Be at all times an Owner in good standing;

(h) Refuse any type of gain, such as money, services, products, gifts or gratuities of a significant value, as determined by a majority vote of the Directors who meet all of the required qualifications to serve as such, which gain is offered in relation to the Owner's service as a Director. In addition, the Owner must disclose such offers at an open

meeting of the Board. Compensation for services duly approved by the Board and unrelated to duties as a Director or Officer of the Association, and reimbursement of expenses associated with services to the Association, do not constitute prohibited gain within the meaning of this subsection; and

(i) Not act in a manner determined by a majority vote of the Directors to be grossly detrimental to the general safety, health or welfare of the Association and its members.

2.3 ELECTION.

2.3.1 **General Procedure.** On the date of the first annual meeting of the Owners, the offices of the three (3) interim Directors shall be deemed to be vacant, and the Members of the Association (including Declarant and Neighborhood Builders) shall elect new Directors to fill all Board seats not filled by Declarant appointees as described below. At each annual meeting thereafter (as described in Section 4.2), new Directors shall be elected or appointed (as applicable) to fill vacancies on the Board. If an annual meeting is not held, or all vacancies on the Board are not filled at the annual meeting, vacancies may be filled in accordance with the procedure for filling vacancies set forth in Section 2.5.

2.3.2 **Voting.** Voting shall be by secret written ballot. An Owner may cumulate his votes for any candidate for the Board in any election in which more than two (2) Directors are to be elected if (a) the candidate's name has been placed in nomination before the voting takes place, and (b) the Owner has given notice at the meeting before the voting of such Owner's intent to cumulate votes. If an Owner cumulates his votes, such Owner may cast a number of votes equal to the Owner's share of the voting power multiplied by the number of Directors to be elected. If any one Owner has given this notice, all Owners may cumulate their votes for candidates in nomination.

2.3.3 **Special Election Requirement.** So long as either (a) Declarant is entitled to exercise its Board Appointment Right, or (b) Declarant and Neighborhood Builders collectively are entitled to exercise a majority of the Association's voting power, at least one (1) of the members of the Board must be elected solely by the votes of Owners other than Declarant and the Neighborhood Builders. Furthermore, until expiration of the Board Appointment Right, Declarant and Neighborhood Builders shall not cast any Class A or Class B vote to elect any Director.

2.4 **TERM OF OFFICE.** Each Director shall hold office until the earlier to occur of (a) the end of the Director's term of office after a successor has been elected, or (b) his death, resignation, removal or judicial adjudication of mental incompetence. At the first annual meeting, the term of office of the two (2) Directors receiving the highest number of votes shall be three (3) years and the term of office of the Director receiving receiving the next highest number of votes shall be two (2) years. At the first annual meeting and at any future election in which all Board seats are to be filled, Directors who are appointed by exercise of Declarant's Board Appointment Right shall be deemed to have received the highest number of votes. Thereafter, new Directors shall be elected or appointed to fill any vacancies. The term of office of each Director elected to fill a vacancy created by expiration of a Director's term of office shall

be two (2) years. The term of office of each Director elected or appointed to the Board for any other reason shall be the balance of the unserved term. Any person serving as a Director may be reelected. There is no limit on the number of terms which a Director may serve.

2.4.1 **Term for Appointee Directors.** Notwithstanding anything in these Bylaws to the contrary, all Directors appointed at any time by exercise of the Board Appointment Right shall serve until the earlier of:

- (a) Removal of the Director by Declarant;
- (b) The date of the appointed Director's death or resignation from the Board of Directors;
- (c) The date that is three (3) years after the date on which the Board Appointment Right expires; or
- (d) The date on which Declarant no longer owns any portion of the Community or Annexable Territory.

2.5 VACANCIES.

2.5.1 **Deemed Vacancies.** A vacancy on the Board is deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any Director or if the Owners fail to elect the full number of authorized Directors at any meeting at which a Directors election is to take place.

2.5.2 **Declared Vacancies.** Subject to Section 2.6.2, the Board by a majority vote of the Directors who meet all of the requirements for incumbent directors in Section 2.2.2 above, may declare vacant the office of any Director who fails or ceases to meet any required qualification that was in effect at the beginning of the Director's current term of office.

2.5.3 **Agents of Declarant or Neighborhood Builder.** Notwithstanding anything in these Bylaws to the contrary, the office of any Director who is an employee or other agent of the Declarant or a Neighborhood Builder shall be deemed to be vacant on the date on which the Director ceases to be an employee or agent of Declarant or a Neighborhood Builder. Until termination of the Declarant's Board Appointment Right, a vacancy in the office of any Declarant-appointed Director shall be filled only by another Declarant appointee.

2.5.4 **Replacement.** Vacancies in elected seats on the Board caused by any reason other than the removal of a Director by the Board or by the Owners may be filled by either (a) a vote of a majority of the remaining Directors, even though they may constitute less than a quorum, or (b) by vote of the Owners at a meeting, and any vacancy caused by the removal of a Director must be filled by a vote of the Owners. However, if a seat held by a Declarant appointee is vacated, then Declarant shall have the sole right to appoint a replacement Director to the vacant seat until the earlier of:

- (a) The date that is three (3) years after the date on which the Board Appointment Right expires; or

(b) The date on which Declarant no longer owns any portion of the Community or Annexable Territory.

2.6 REMOVAL OF DIRECTORS.

2.6.1 **Generally.** At any meeting of the Owners, any individual Director or the entire Board may, subject to Section 2.5.4 above, be removed before the expiration of their terms of office with or without cause as follows: (a) for so long as fewer than fifty (50) Lots are included in the Community, by the vote of Owners representing a majority of the Association's total voting power (including votes attributable to Declarant and the Neighborhood Builders), and (b) once fifty (50) or more Lots are included in the Community, by the vote of Owners representing a majority of a quorum of Owners.

However, if the entire Board is not removed as a group pursuant to a single vote, no individual Director may be removed if the number of votes cast against removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting. If any Directors are removed, new Directors may be elected at the same meeting.

2.6.2 **Restrictions on Removal Powers.** Notwithstanding anything in these Bylaws to the contrary, any Director elected to office solely by the votes of Owners other than Declarant or a Neighborhood Builder pursuant to Section 2.3.3 may be removed only by the vote of at least a simple majority of the Association's voting power represented by Owners other than Declarant and Neighborhood Builders. Any Director appointed by Declarant may only be removed by Declarant, and the vacancy filled only by a Director appointed by Declarant, or elected by the votes of Declarant (as applicable) until the earlier of:

(a) The date that is three (3) years after the date on which the Board Appointment Right expires; or

(b) The date on which Declarant no longer owns any portion of the Community or Annexable Territory.

2.6.3 **Removal for Failure to Qualify.** The Board, by a majority vote of Directors who meet all the qualifications for Directors in Section 2.2, may declare vacant the office of any Director who was not appointed by Declarant or elected by the votes of Declarant or a Neighborhood Builder if such Director fails to meet the requirements of Section 2.2.

2.7 **COMPENSATION.** Directors may not receive any compensation for their services as Directors unless such compensation is first approved by Owners representing at least a majority of the Association's voting power. However, (a) nothing in these Bylaws precludes any Director from serving the Association in some other capacity and receiving compensation therefor, and (b) any Director may be reimbursed for actual expenses incurred in performance of Association duties, and (c) no agent, officer, employee or director of Declarant or a Neighborhood Builder, or any affiliate of Declarant or a Neighborhood Builder, may receive any compensation from the Association for service as a Director of the Association.

2.8 MEETINGS OF THE BOARD. Except in certain emergency situations described below, the Directors may not take action on any item of business outside of a meeting.

2.8.1 Conduct of Meeting; Attendees. Any meeting of the Board may be conducted by teleconference at which a majority of the Directors are connected by electronic means, through audio or video or both, with at least one physical location so that the Members may attend and at least one Director, or person designated by the Board, is present at that location, and so long as the requirements for attendance and participation of Directors and Members at the meeting under the CID Act and the California Corporations Code are met. ~~In these cases, all Directors who participate in a meeting by any of these methods will be deemed to be present in person at the meeting.~~

2.8.2 Regular Meetings. Regular meetings may be held at such time and place fixed from time to time by resolution adopted by a majority of a quorum of the Directors. The meeting place shall ordinarily be within the Community or as near as possible to the Community, but the Board may elect to hold a meeting at the Manager's corporate offices if such location is determined to be reasonable in the Board's business judgment. Regular meetings shall be conducted as frequently as the business of the Board justifies, but in no event may regular meetings be held any less frequently than quarterly. Each Director and the Members shall be given notice of the time and place of regular meetings of the Board not less than four (4) days before the date of the meeting, except in the case of an emergency meeting or a meeting that will be solely held in executive session (as described below).

2.8.3 Special Meetings. Special meetings may be called by the President or by any two (2) Directors other than the President. Notice of the time and place of special meetings of the Board shall be posted and communicated in the manner prescribed for regular meetings, but it shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the special meeting. Such notice is not required to be sent to any Director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

2.8.4 Executive Sessions. Any Member of the Association may attend meetings of the Board, except when the Board adjourns to executive session to consider litigation, matters relating to the formation of contracts with third parties, Member discipline, personnel matters, or to meet with a Member, upon the Member's request, regarding the Member's payment of Assessments, as specified in California Civil Code Section 5665. The Board shall meet in executive session, if requested by a Member who may be subject to a fine, penalty, or other form of discipline, and the Member shall be entitled to attend the executive session. Except as expressly permitted in this Section, only Directors, the Association's counsel and the Association's consultants may attend executive sessions. Except for an emergency meeting, Members shall be given notice of the time and place of a meeting that will be held solely in executive session at least two (2) days prior to the meeting, pursuant to the means of giving notice described below. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following meeting that is open to the entire membership.

2.8.5 Emergency Meetings of the Board. If there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action

by the Board and which of necessity make it impractical to provide notice to the Members, then an emergency meeting of the Board may be called by the President or any two other members of the Board without providing notice to the Members. Electronic transmissions may be used as a method of conducting an emergency meeting if all Directors consent in writing to that action and the written consents are filed with the minutes of the meeting. Written consent to conduct an emergency meeting may be transmitted electronically. Emergency meetings must comply with all applicable provisions of California Civil Code Section 4910(b)(2).

2.8.6 Organizational Meeting for New Board. The first regular ~~“organizational” meeting of a newly elected Board must be held within ten (10) days of election~~ of the Board, at such place as is fixed and announced by the Directors at the meeting at which such Directors were elected, to organize, elect officers and transact other business. No prior notice of such meeting is required for the newly elected Directors so long as (a) a majority of the whole Board is present at the meeting of the Owners when the time and place for the organizational meeting are announced, and (b) the organizational meeting is held on the same day and at the same place as the meeting of the Owners at which the newly constituted Board was elected.

2.8.7 Other Meetings. Any congregation of a majority of the Directors at the same time and place, and any teleconference at which a majority of the Directors are connected at different locations by electronic means, through audio or video or both, to hear, discuss or deliberate on any item of business that is within the authority of the Board, shall constitute a meeting of the Board. All Owners shall have the right to attend any regular, special or other meeting of the Board, except an executive session as described above. Owners who are not Directors may not participate in any deliberation or discussion at such meetings unless authorized by a vote of a majority of a quorum of the Board. However, at each Board meeting, except for executive sessions, the Board must set aside time for Owners to speak, subject to reasonable limits imposed by the Board.

2.8.8 Form of Notice to Owners. Notice of a meeting of the Board shall be given by posting in a prominent place or places in the Common Area and by mail to any Member who requested notification of meetings by mail at the address requested by the Member. However, if there is no Common Area in the Community, notice of a meeting of the Board shall be given by first class United States mail to Members at the mailing address for the Member as provided in the Membership Register (as defined below). Notice may also be given by mail, by delivery to each Lot, by newsletter or similar means of communication, or, with the consent of the Member, by electronic means. Notice of a meeting need not be given to any Director who has signed a waiver of notice or written consent to holding of the meeting.

2.8.9 Waiver of Notice. Before or after any meeting of the Board, any Director may, in writing, waive personal notice of such meeting. Attendance by a Director at any Board meeting waives the requirement of personal notice. If all Directors are present at a Board meeting, no notice to Directors is required and any business may be transacted at such meeting. The transactions of any Board meeting, however called and noticed or wherever held, are valid as though had at a meeting duly held after regular call and notice, if (a) a quorum is present, (b) notice to the Owners of such meeting was posted as provided in Sections 2.8.2 and 2.8.3, and (c) either before or after the meeting, each of the Directors not present signs a written

waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. The Secretary shall file all such waivers, consents and approvals with the Association's records or make them a part of the minutes of the meeting.

2.8.10 Quorum and Adjournment. Except as otherwise expressly provided in these Bylaws, at all meetings of the Board, a majority of the Directors constitutes a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present are the acts of the Board. At any meeting of the Board when less than a quorum is present, the majority of those present may adjourn the meeting to another time. At ~~any such reconvened meeting, any business which might have been transacted at the meeting as originally called~~ may be transacted without further notice if a quorum is present.

2.9 COMMITTEES. The Board may by resolution establish such committees as it desires, and may establish the purposes and powers of each such committee created. The resolution establishing the committee must (a) provide for the appointment of its members and a chairman, (b) state the purposes of the committee, and (c) provide for reports, termination and other administrative matters as the Board considers appropriate.

2.10 GENERAL POWERS AND DUTIES. Subject to the limits described in Section 2.11, the Declaration and under applicable law governing homeowners associations, the Association has the general powers of a nonprofit mutual benefit corporation organized under California law, to the extent necessary to administer its affairs. All the Association's powers shall be exercised by the Board except those powers specifically reserved to the Owners. The powers and duties of the Association include the following:

2.10.1 Enforcement. The power and duty to enforce applicable provisions of the Governing Documents, and the power to initiate and execute disciplinary proceedings against Members for violations of the Governing Documents in accordance with procedures set forth in the Governing Documents. Such powers include the power to impose sanctions and fines against Owners for violations of the Governing Documents.

2.10.2 Payment of Taxes. Payment of taxes and assessments which are, or could become, a lien on any property owned by the Association.

2.10.3 Assessments. The power and duty to fix and levy Assessments and identify the due date for payment of Assessments. The Board may incur Common Expenses. The Association's funds shall be held in trust for the Owners.

2.10.4 Insurance. The power and duty to contract and pay for casualty, liability and other insurance on behalf of the Association in accordance with the Declaration. The insurance shall provide coverage against such damages or injuries as the Board considers advisable, which coverage may include medical expenses of persons injured on the Common Property. The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on the Association's behalf.

2.10.5 Obtaining Goods and Services. Subject to the limitations on contracts set forth in Section 2.11.3 below, the power to contract for goods and services for the Common Property, or for the Association, including (a) contracts for maintenance, landscaping

and common utilities services, (b) contracts for materials and supplies necessary for the operation and maintenance of the Common Property, (c) contracts to obtain the services of personnel necessary to operate and manage the Community, including management, legal and accounting services, and (d) contracts to pay the cost of construction, maintenance, repair, removal and replacement of Improvements on the Common Property.

2.10.6 **Delegation.** The power but not the duty to delegate its powers to committees, officers and employees of the Association as authorized under the Governing Documents.

2.10.7 **Rules and Regulations.** The power and duty to formulate rules of operation of the Common Property.

2.10.8 **Budgets and Financial Reporting.** The power and duty to prepare budgets and financial statements for the Association as prescribed in the Governing Documents.

2.10.9 **Right of Entry.** The power to enter upon any privately-owned Lot as necessary in connection with construction, maintenance or emergency repair for the benefit of the Common Property or the Owners in common.

2.10.10 **Filling Vacancies.** The power and duty to fill vacancies on the Board except for a vacancy created by the removal of a Director.

2.10.11 **Officers, Agents and Employees.** The power and duty to select, appoint and remove all Association officers, agents and employees, to prescribe such powers and duties for them as may be consistent with law and with the Governing Documents, to fix their compensation, to require from them such security for faithful service as the Board considers advisable, and to contract to provide them with such indemnification as the Board determines is appropriate.

2.10.12 **Bylaws.** The power and duty to adopt these Bylaws.

2.10.13 **Records.** The power and duty to keep a complete record of Association acts and corporate affairs.

2.10.14 **Manager.** The power to engage a professional Manager for the Association at a compensation established by the Board to perform such duties and services as the Board authorizes.

2.10.15 **Agreements with Declarant and Neighborhood Builders.** The power but not the duty to negotiate and enter into agreements with Declarant and Neighborhood Builders subject to applicable restrictions in the Governing Documents.

2.10.16 **Principal Office, Place of Meetings, Seal.** The power but not the duty to move the Association's principal office from one location to another in the County; to designate any place in the County for holding any meetings of Owners consistent with the provisions of Section 4.2.4; and to adopt and use a corporate seal and to alter the form of such seal.

2.10.17 Rules for Elections; Inspector of Elections. The power and duty to adopt rules governing elections in accordance with the procedures prescribed in California Civil Code Section 5105(a), and the power and duty to select an independent inspector of election in accordance with California Civil Code Section 5110.

2.11 POWERS AND DUTIES; LIMITATIONS. Without limiting the scope of the Board's general powers and duties, the Board is granted the following powers and duties:

2.11.1 Sale or other Transfer of Property. The power but not the duty to ~~sell property of the Association.~~ Approval from Owners representing at least a majority of the Association's voting power must be obtained before property of the Association having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for the Fiscal Year is sold in a single Fiscal Year.

2.11.2 Capital Improvement Expenditures. The power to incur expenditures for capital improvements to the Common Property. Approval from a majority of the Owners (excluding Declarant and Neighborhood Builders), representing a quorum of more than fifty percent (50%) of non-Declarant and non-Neighborhood Builder votes, must be obtained before the Association incurs, in any Fiscal Year, aggregate expenditures for capital improvements to the Common Property in excess of five percent (5%) of the Association's budgeted gross expenses for that Fiscal Year.

2.11.3 Certain Contracts. Notwithstanding anything in these Bylaws to the contrary, the Board is prohibited from taking any of the following actions, except with the assent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to California Corporations Code Section 7513, of a simple majority of the Members, other than the Declarant or Neighborhood Builders, constituting a quorum consisting of more than fifty percent (50%) of the voting power of the Association residing in Members other than the Declarant or the Neighborhood Builders:

(a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Property or the Association for a term longer than one year with the following exceptions:

(i) If FHA or VA are insuring loans in the Community, a management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.

(ii) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(iii) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.

(iv) Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five (5) years duration provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(v) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five (5) years duration provided that the supplier or suppliers are not entities in which the subdivider has a direct or indirect ownership interest of ten percent (10%) or more.

(vi) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty, or other obligation upon ninety (90) days written notice of termination to the other party.

(vii) A contract approved by the CalBRE.

(viii) Contracts in which the Association enters into litigation or any alternative dispute resolution procedure when the Association's obligation to pay for services is set in whole or in part on a contingency basis only if they are (i) contracts for collection of assessments or other accounts receivable, (ii) or contracts involving evaluation of services, or (iii) contracts with a total amount to be paid by the Association not in excess of Forty Thousand Dollars (\$40,000.00).

(b) Incurring aggregate expenditures for capital Improvements to the common area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(c) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(d) Paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

2.12 DISTRIBUTION OF INFORMATION. The Board shall distribute the following financial information to all Owners (and any Beneficiary, insurer and guarantor of a first Mortgage on request), regardless of the number of Owners or the amount of assets of the Association:

2.12.1 Budget. A pro forma operating budget for each Fiscal Year containing the information required under California Civil Code Section 5300(b), and including at least the following information must be distributed not less than thirty (30) nor more than ninety (90) days before the beginning of the Fiscal Year:

(a) Estimated revenue and Common Expenses computed on an accrual basis.

(b) A summary of the Association's reserves based on the most recent review or study conducted pursuant to California Civil Code Section 5550, which must be printed in bold type and include all of the following:

(i) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component of the Common Property for which the Association is responsible.

(ii) As of the end of the Fiscal Year for which the study is prepared:

(1) The current estimate of the amount of cash reserves necessary to restore or maintain the major components of the Common Property for which the Association is responsible ("**Estimated Reserves**").

(2) The current amount of accumulated cash reserves actually set aside to restore or maintain the major components of the Common Property for which the Association is responsible ("**Actual Reserves**").

(iii) The percentage that the Actual Reserves is of the Estimated Reserves.

(c) A statement of whether the Board has determined or expects that the levy of one or more Capital Improvement or Reconstruction Assessments will be required to repair, replace, or restore any major component of the Common Property for which the Association is responsible or to provide adequate reserves therefor.

(d) A general statement setting forth the procedures used by the Board in calculating and establishing reserves to defray the costs of repair and replacement of, or additions to, major components of the Common Property and facilities for which the Association is responsible.

The Board may distribute a summary of the Budget instead of the Budget itself, so long as the Board complies with the provisions of California Civil Code Section 5305.

2.12.2 **Financial Report.** A report consisting of at least the following must be distributed within one hundred twenty (120) days after the close of the Fiscal Year:

(a) A balance sheet as of the end of the Fiscal Year.

(b) An operating (income) statement for the Fiscal Year.

(c) A statement of changes in financial position for the Fiscal Year.

(d) Any information required to be reported under California Corporations Code Section 8322.

(e) For any Fiscal Year in which the Association's gross income exceeds Seventy Five Thousand Dollars (\$75,000), a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

(f) A statement of the place where the names and addresses of the current Owners are located.

If the report referred to in Section 2.12.2 is not prepared by an independent accountant, it must be accompanied by the certificate of an authorized Association officer stating that the statement was prepared from the Association's books and records without independent audit or review.

2.12.3 **Insurance Information.** The Association shall distribute to all Owners a summary of the Association's property, general liability, earthquake, flood and fidelity insurance policies (all as applicable) not less than thirty (30) nor more than ninety (90) days before the beginning of the Association's Fiscal Year, that includes all of the following information: (a) the name of the insurer, (b) the type of insurance, (c) the policy limits of coverage, and (d) the amount of the deductibles, if any.

(a) The Association shall, as soon as reasonably practical, notify the Owners by first-class mail if any of the policies described above have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described above, the Association shall immediately notify the Owners if replacement coverage will not be in effect by the date the existing coverage will lapse.

(b) To the extent that any of the information required to be disclosed is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all Owners.

(c) The summary distributed above shall contain, in at least 10-point boldface type, the following statement:

"This summary of the Association's policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including

personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.”

2.12.4 Enforcement Policies. In addition to financial statements, the Board ~~shall annually distribute not less than thirty (30) nor more than ninety (90) days before the~~ beginning of the Association’s Fiscal Year a statement of the Association’s policies and practices in enforcing its lien rights or other legal remedies against Owners for defaults in the payment of Assessments, including the recording and foreclosing of liens against Lots.

2.12.5 Assessment and Foreclosure Notice.

(a) The Association shall distribute the written notice described in subsection (b) below to each Association member during the sixty (60) day period immediately preceding the beginning of the Association’s Fiscal Year. The notice shall be printed in at least 12-point type. An Association member may provide written notice of a secondary address to the Association by facsimile transmission or United States mail. If a secondary address is provided, the Association shall send any correspondence and legal notices required pursuant to these Bylaws both to the primary and the secondary address.

(b) The notice required by this Section shall read as follows:

NOTICE

ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the California Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND NONJUDICIAL FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner’s property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount

of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (California Civil Code Sections 5700 through 5720)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (California Civil Code Section 5725)

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (California Civil Code Section 5675)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail. Among these documents, the association must send a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (California Civil Code Section 5660)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (California Civil Code Section 5685)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. ~~The association must inform owners of a mailing address for overnight payments.~~ (California Civil Code Section 5655)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the California Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the California Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest and costs of collection, if it is established that the assessment was paid properly on time. (California Civil Code Section 5685)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a timeshare may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. (California Civil Code Section 5665)

The board of the directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan

standards of the association, if they exist. (California Civil Code Section 5665)

2.12.6 **Accounts.** On at least a quarterly basis, the Board shall: (a) cause to be completed and review a current reconciliation of the Association's operating and reserve accounts, (b) review the current Fiscal Year's actual reserve revenues and expenses compared to the Budget for the then current Fiscal Year, (c) review the income and expense statement for the Association's operating and reserve accounts, (d) review the most current account statements prepared by the financial institutions where the Association keeps its operating and reserve accounts, and (e) fulfill any additional duties established by the CID Act. The signatures of either (1) two (2) Directors, or (2) one (1) Director and one (1) Association officer (who is not also a Director) are required for the withdrawal of money from the Association's reserve accounts. As used in this Subsection, the term "reserve accounts" means Budgeted funds that the Board has designated for use to defray the future repair and replacement of, or additions to, those major components of the Common Property which the Association is obligated to maintain.

2.12.7 **Reserve Study.** The Board shall cause a study of the reserve account requirements of the Community to be conducted in accordance with California Civil Code Section 5550. As used in this Subsection, "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components of the Common Property which the Association is obligated to maintain.

ARTICLE III OFFICERS

3.1 **ENUMERATION OF OFFICERS.** The Association's principal officers are a President, a Vice President, a Secretary, and a Treasurer, all elected by the Board. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as it determines to be necessary. Officers other than the President need not be Directors. Any person may hold more than one office.

3.2 **ELECTION OF OFFICERS.** The Board shall annually elect the Association's officers at the first meeting of the Board to occur following the annual meeting of the Members. The Board shall adopt rules relating to the election of officers according to the procedures prescribed by California Civil Code Section 4340, *et seq.* Each officer shall hold his office at the pleasure of the Board, until he resigns or is removed, is otherwise found to be disqualified to serve or a successor is elected who is qualified to serve.

3.3 **REMOVAL OF OFFICERS.** On an affirmative vote of a majority of the entire Board, any officer may be removed, either with or without cause, and a successor elected at any meeting of the Board. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified therein. Unless specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective.

3.4 **COMPENSATION.** No officer may receive any compensation for services performed in the conduct of the Association's business unless such compensation is approved by the vote or written consent of Owners representing at least a majority of the Association's voting power; however (a) nothing in these Bylaws precludes any officer from serving the Association in some other capacity and receiving compensation therefor, and (b) any officer may be reimbursed for actual expenses incurred in the performance of Association duties. Appointment of any officer does not create contractual rights of compensation for services performed by such officer. No officer, employee or director of Declarant or a Neighborhood Builder, or any affiliate of Declarant or a Neighborhood Builder, may receive any compensation for service as an officer of the Association.

3.5 **PRESIDENT.** The President is the chief executive officer of the Association and shall (a) preside at all Association and Board meetings, (b) have the general powers and duties which are usually vested in the office of the President of a corporation, including but not limited to the power to appoint committees from among the Owners as the President decides is appropriate to assist in the conduct of the Association's affairs, and (c) subject to the control of the Board, have general supervision, direction and control of the Association's business. The President is ex officio a member of all standing committees and has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.6 **VICE PRESIDENT.** The Vice President shall take the President's place and perform the President's duties whenever the President is absent, disabled, fails or refuses to act. If neither the President nor the Vice President is available to perform the President's duties, the Board shall appoint another member of the Board to do so on an interim basis. The Vice President has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.7 **SECRETARY.** The Secretary shall (a) keep the minutes of all meetings of the Board and of the Association at the Association's principal office or at such other place as the Board may order, (b) keep the Association's seal in safe custody, (c) have charge of such books and papers as the Board may direct, (d) in general, perform the duties incident to the office of Secretary, (e) give, or cause to be given, notices of meetings of the Owners and of the Board required by these Bylaws or by law to be given, (f) keep a record book of Owners, listing the names, mailing addresses and telephone numbers of Owners, as furnished to the Association ("*Membership Register*"), and (g) record in the Membership Register the termination or transfer of ownership by any Owner, together with the date of the transfer. The Secretary has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.8 **TREASURER.** The Treasurer is the Association's chief financial officer and is responsible for Association funds. The Treasurer shall (a) keep, or cause to be kept, full and accurate accounts and tax and business records of the Association, including accounts of all assets, liabilities, receipts and disbursements, (b) be responsible for the deposit of all funds in the name of the Association in such depositories as the Board designates, (c) disburse the Association's funds as ordered by the Board, and (d) render to the President and Directors, on request, an account of all transactions as Treasurer and of the Association's financial condition. The Treasurer has such other powers and duties as may be prescribed by the Board or these Bylaws.

ARTICLE IV OWNERS

4.1 OWNER VOTING RIGHTS.

4.1.1 **Classes of Membership.** The Association has two (2) classes of Membership, as described in the Declaration. The Class A and Class B Memberships are voting Memberships. However, the Declarant's Board Appointment Right is not a part of the "voting power" of the Association. It is to be exercised solely for the appointment of Directors in accordance with these Bylaws and the Declaration.

4.1.2 **Interpretation.** Except as provided in Section 2.3.3, any provision of the Bylaws which requires the vote or written consent of a specified percentage of the Association's voting power (i.e., actions requiring more than merely the vote or written consent of a majority of a quorum), requires the approval of such specified percentage of all of the following: (a) the Class A Membership; (b) the Class B Membership (so long as a Class B Membership exists); (c) the Association's total voting power; and (d) the voting power represented by Owners other than Declarant and Neighborhood Builders. Whenever a reference is made in these Bylaws or the Declaration to the Association's voting power, it is a reference to the voting power of the Class A and Class B Memberships, and not to the Board Appointment Right of Declarant.

4.2 OWNER MEETINGS.

4.2.1 **First Annual Meeting.** The first annual meeting of Owners, whether regular or special, shall be held no later than the date that is six (6) months after the first Close of Escrow in Phase 1.

4.2.2 **Regular Meetings of Owners.** Regular meetings shall be held at least annually on or about the anniversary date of the first annual meeting. Each first Mortgagee may designate a representative to attend all annual meetings.

4.2.3 **Special Meetings of Owners.** The Board shall call a special meeting of the Owners (a) as directed by resolution of a majority of a quorum of the Board, (b) by request of the President of the Association, or (c) on receipt of a written request for a special meeting signed by Owners representing at least five percent (5%) of the Association's total voting power. The Secretary shall give written notice of any special meeting not less than ten (10) nor more than ninety (90) days before the date of the meeting at which members are required or permitted to take any action. The notice must state the date, time and place of the special meeting and the general nature of the business to be transacted. The special meeting must be held not less than thirty-five (35) nor more than ninety (90) days after adoption of such resolution or receipt of such request or petition. No business may be transacted at a special meeting except as stated in the notice. Each first Mortgagee may designate a representative to attend all special meetings.

4.2.4 **Place.** Meetings of the Owners shall be held in the Community, or such other suitable place as proximate to the Community as practical and convenient to the Owners, as designated by the Board.

4.2.5 **Adjourned Meetings.** If a quorum is not present at the time and place established for a meeting, a majority of the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days after the original meeting date, at which meeting the quorum requirement is the presence in person or by proxy of Owners holding at least twenty-five percent (25%) of the Association's voting power. Such an adjourned meeting may be held without the notice required by these Bylaws if notice thereof is given by announcement at the meeting at which such adjournment is taken.

4.2.6 **Order of Business.** Meetings of Owners must be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. The order of business at all meetings of the Owners is as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) election of inspector of election (at annual meetings or special meetings held for such purpose); (g) election of Directors (at annual meetings or special meetings held for such purpose); (h) unfinished business; and (i) new business.

4.2.7 **Minutes, Presumption of Notice.** Minutes or a similar record of the proceedings of meetings of Owners, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters described therein. A recitation in the minutes executed by the Secretary that proper notice of the meeting was given constitutes prima facie evidence that such notice was given.

4.2.8 **Consent of Absentees.** The actions taken at any meeting of Owners, however called and noticed, are valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present either in person or by proxy, and (b) either before or after the meeting, each of the Owners not present in person or by proxy signs (1) a written waiver of notice, (2) a consent to the holding of such meeting, or (3) an approval of the minutes thereof. The Secretary shall file all such waivers, consents or approvals with the corporate records or make them a part of the minutes of the meeting.

4.2.9 **Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of at least twenty-five percent (25%) of the Association's voting power constitutes a quorum of the Membership. Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, despite the withdrawal of enough Owners to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of a quorum. If a meeting is actually attended, in person or by proxy, by Owners having less than one-third (1/3) of the Association's voting power, then no matter may be voted on except matters which were generally described in the notice of the meeting. No action by the Owners on any matter is effective if the votes cast in favor are fewer than the minimum number of votes required by the Governing Documents to approve the action.

4.2.10 **Majority of Quorum.** Unless otherwise provided in the Governing Documents, any action which may be taken by the Association may be taken by a majority of a quorum of the Association's voting power.

4.2.11 **Proxies.** Votes may be cast in person or by proxy. Proxies must be in writing, comply in form with the requirements of California Civil Code Section 5130, and be filed with the Secretary in advance of each meeting. Every proxy is revocable and automatically ceases to have any further legal effect after completion of the meeting for which the proxy was filed. Any form of proxy or written ballot distributed by any Person to the Owners must afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted on, except it is not mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice. The proxy must also identify the Person authorized to exercise the proxy and the length of time it will be valid. No proxy is valid concerning a vote on any matter described in California Corporations Code Section 7613(g) unless the general nature of the proposal was described in the proxy.

4.2.12 **Notice.** The Secretary shall send to each Owner of record, and to each first Mortgagee who has filed a written request for notice with the Secretary, a notice of each annual or special meeting. The notice must be sent by first-class mail, at least ten (10) but not more than thirty (30) days before the meeting. The notice must state the purpose for the meeting as well as the day, hour and place where it is to be held. The notice may establish time limits for speakers and nominating procedures for the meeting. The notice must specify those matters the Board intends to present for action by the Owners, but, except as otherwise provided by law, any proper matter may be presented for action at the meeting. The notice of any meeting at which Directors are to be elected must include the names of all nominees when the notice is given to the Owners. The mailing of a notice, postage prepaid, in the manner provided in this Section, shall be considered notice served, forty-eight (48) hours after the notice has been deposited in a regular depository of the United States mail. Such notice must be posted in a conspicuous place on the Common Area (if any) and is deemed served on an Owner on posting if no address for such Owner has been then furnished the Secretary.

4.2.13 **Matters Requiring Special Notice to Owners.** Notwithstanding any other provision of these Bylaws, approval by the Owners of any of the following proposals, other than by unanimous approval of those Owners entitled to vote, is not valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice: (a) removing a Director without cause; (b) filling vacancies on the Board; (c) approving a contract or transaction between the Association and one or more Directors, or between the Association and any entity in which a Director has a material financial interest; (d) amendment of the Articles; or (e) electing to wind up and dissolve the Association.

4.2.14 **Matters Requiring Secret Ballot.** Notwithstanding any other law or provision of the Governing Documents, an election regarding Assessments, selection of Board members, amendments to the Governing Documents, or the grant of exclusive use of common area under California Civil Code Section 4600, shall be held by secret ballot according to the procedures set forth in this Section 4.2.

4.3 **RECORD DATES.** The Board may fix a date in the future as a record date for determining which Owners are entitled to notice of any meeting of Owners. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for notice to Owners, the record date for notice is the close

of business on the business day preceding the day on which notice is given. In addition, the Board may fix a date in the future as a record date for determining the Owners entitled to vote at any meeting of Owners. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for determining Owners entitled to vote, Owners on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

4.4 **ACTION WITHOUT MEETING.** Except for election of Directors, any action which may be taken at a meeting of the Owners may be taken without a meeting by written ballot ~~of the Owners, according to the provisions of California Civil Code Section 5100, et seq.~~ Solicitations for ballots must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received to be counted. The form of written ballot must afford an opportunity to specify a choice between approval and disapproval of each matter and must provide that, where the Owner specifies a choice, the vote shall be cast in accordance therewith. Receipt within the time period specified in the solicitation of (i) ballots which equal or exceed the quorum which would be required if the action were taken at a meeting, and (ii) approvals which equal or exceed the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast, constitutes approval by written ballot.

ARTICLE V AMENDMENTS

These Bylaws may be amended by the vote or written consent of Owners representing at least (a) a majority of the voting power of each class of the Owners, and (b) a majority of the Association's voting power represented by Owners other than Declarant and Neighborhood Builders; provided that the specified percentage of each class of Owners necessary to amend a specific provision of these Bylaws may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. These Bylaws may be amended by a majority of the entire Board, (1) at any time before the Close of Escrow for the sale of the first Lot, or (2) if the amendment is within the Board's power to adopt without Owner approval pursuant to the California Corporations Code and either (a) the proposed amendment conforms the Bylaws to California law or the requirements of CalBRE, FHFA, FHA, VA, Fannie Mae, Ginnie Mae or Freddie Mac, or (b) the proposed amendment corrects a typographical error in the Bylaws. Any amendment to these Bylaws which materially affects the rights of Mortgagees as described in Article 11 or Section 13.2 of the Declaration must be approved by at least the percentage of Mortgagees specified in the applicable provision of Article 11 or Section 13.2 of the Declaration. If an amendment to these Bylaws materially affects matters listed in both Article 11 and Section 13.2 of the Declaration, then the amendment must be approved pursuant to the requirements of both Article 11 and Section 13.2 of the Declaration. Notwithstanding anything to the contrary in these Bylaws or in the other Governing Documents of the Association, during the term of Declarant's Board Appointment Right, no amendment concerning the Board Appointment Right shall be effective without the prior written consent of the Declarant, which consent it may withhold in its sole discretion.

**ARTICLE VI
MISCELLANEOUS**

6.1 **VOTE TO INITIATE FIX-IT LAW CLAIM.** Beginning on the date of the first annual meeting of the Owners, Declarant relinquishes control over the Association's ability to decide whether to initiate a Fix-It Law Claim. This means that Declarant and Directors who are current employees or agents of Declarant and all other Persons whose vote or written consent is inconsistent with the intent of the preceding sentence, are prohibited from participating and voting in any decision of the Association or Owners to initiate a Fix-It Law Claim.

6.2 **CHECKS, DRAFTS AND DOCUMENTS.** All checks, drafts, orders for payment of money, notes and other evidences of indebtedness issued in the name of or payable to the Association must be signed or endorsed in the manner and by the person or persons the Board designates by resolution, subject to the requirements of Section 2.12.6 for withdrawing money from the Association's reserve accounts.

6.3 **CONFLICTS.** If any of these Bylaws conflict with any California law, such conflicting Bylaws shall be void on final court determination to such effect, but all other Bylaws shall remain in full force. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

6.4 **EXECUTION OF DOCUMENTS.** The Board may authorize any officer or officers, agent or agents to enter into any contract or execute any instrument in the name and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent, committee member or employee may bind the Association by any contract or pledge its credit or render it liable for any purpose in any amount.

6.5 **AVAILABILITY OF ASSOCIATION DOCUMENTS.**

6.5.1 **Records To Be Maintained.** The Association shall keep at its principal office (or at such other place in or near the Community as the Board may prescribe) the Governing Documents and the Association's records, as defined in California Civil Code Section 5200(a) (collectively, the "*Association Documents*"). The Association Documents shall be made available for inspection and copying by any Owner or the Owner's duly appointed representative for a purpose reasonably related to the Owner's interest as an Owner.

6.5.2 **Inspection Rights.** The Association shall make Association Documents available for the time periods and within the timeframes provided in California Civil Code Sections 5210(a) and (b) for inspection and copying by an Association member, or the member's designated representative. The Association may bill the requesting member for the direct and actual cost of copying requested documents. The Association shall inform the member of the amount of the copying costs before copying the requested documents.

6.5.3 **Manner of Inspection.** The Association shall make the specified Association Documents available for inspection and copying in compliance with the CID Act.

The inspection and copying rights provided in these Bylaws are subject to the rights and restrictions set forth in the CID Act.

6.5.4 **Limitation on Information Disclosed.** The Association may withhold or redact information from the Association's Documents for any of the reasons as set forth in California Civil Code Section 5215.

6.5.5 **Distribution to Owners.** The Association shall provide the requested Association Documents as set forth in California Civil Code Section 5210(b). No later than ten (10) days after the Association receives written request from any Owner, the Association shall provide to that Owner a copy of each of the documents listed in California Civil Code Section 4525 that have been requested by the Owner. Owners must be notified in writing when the budget required in Section 2.12.1 is distributed or at the time of any general mailing to the entire Association Membership of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

6.6 **FISCAL YEAR.** The Board shall select the Association's Fiscal Year. The Fiscal Year is subject to change as the Board determines.

6.7 **STATUTORY AND REGULATORY REFERENCES.** All references made in these Bylaws to statutes or to regulations are to those statutes or regulations as currently in effect or to subsequently enacted replacement statutes or regulations.

ARTICLE VII NOTICE AND HEARING PROCEDURE

7.1 **INITIAL COMPLAINT.** Persons who believe a violation of the Governing Documents has occurred may file a complaint with a Person designated by the Board on a form approved by the Board. The Board will commence the enforcement process and determine whether a violation has occurred. In its discretion, the Board may issue one or two violation letters to the Person alleged to have committed the violation ("**Respondent**") or set a hearing described in Section 7.2 below. The Board may direct the Manager to assist the Board in any of the steps the Board chooses to take in enforcing the Governing Documents except that decisions made at hearings must be made by the Board.

7.2 **SCHEDULING HEARINGS.** A hearing before the Board to determine whether a sanction should be imposed may be initiated by the Board after receipt of at least one complaint. To initiate a hearing, the Board must deliver to the Respondent a notice which includes the following:

7.2.1 **Complaint.** A written statement setting forth in ordinary and concise language the acts or omissions with which the Respondent is charged,

7.2.2 **Basis for Violation.** A reference to the specific provisions of the Governing Documents which the Respondent is alleged to have violated,

7.2.3 **Hearing Schedule.** The date, time and place of the scheduled hearing,

7.2.4 Sanctions. A list of sanctions which may be imposed at the hearing.

The date for the hearing may be no less than fifteen (15) days after the date the notice of hearing is mailed or delivered to the Respondent. The Respondent is entitled to attend the hearing, submit a statement of defense to the Board in advance of the hearing, or present a statement of defense and supporting witnesses at the hearing. If the Respondent does not attend the hearing, the Respondent waives these rights.

7.3 CONDUCT OF HEARING. The Board shall conduct the hearing in executive session (if so requested by the Respondent), and shall afford the Respondent a reasonable opportunity to be heard. Before a sanction will be effective, proof of notice and the invitation to be heard must be placed in the minutes of the meeting. Such proof is adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the Association officer or Board member who mailed or delivered such notice. The record of the meeting must contain a written statement of the results of the hearing and the sanction imposed (if any).

7.4 IMPOSITION OF SANCTIONS. After affording the Respondent an opportunity for a hearing before the Board, the Board may impose any one or more of the following sanctions: (a) levy a Special Assessment as authorized in the Declaration; (b) suspend or condition the Respondent's right to use any recreational facilities the Association owns, operates or maintains commencing on a date in the future selected by the Board; (c) suspend the Respondent's voting privileges established under the Declaration; (d) enter into a Lot to perform maintenance which, according to the Declaration, is the responsibility of the Respondent; or (e) record a notice of noncompliance if allowed by law. Any suspension of Membership privileges may not be for a period of more than thirty (30) days for any non-continuing infraction, but in the case of a continuing infraction (including continuing failure to pay any Assessment after it becomes delinquent) may be imposed as long as the violation continues. Written notice of any sanctions to be imposed must be delivered to the Respondent personally, by any system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means, by first class mail or certified mail return receipt requested, or any combination of the foregoing. No action against the Respondent arising from the alleged violation may take effect before five (5) days after the hearing. The Board shall not impose any sanction that will interfere with or prevent Declarant's exercise of any rights reserved in Article 15 of the Declaration.

7.5 LIMITS ON REMEDIES. The Board's failure to enforce the Governing Documents does not waive the right to enforce them. The remedies provided by the Governing Documents are cumulative and not exclusive. However, any individual Owner must exhaust all available internal Association remedies prescribed by the Governing Documents before that Owner may resort to a court of law for relief concerning any alleged violation of the Governing Documents by another Owner.

[CERTIFICATE OF SECRETARY ON NEXT PAGE]

CERTIFICATE OF SECRETARY

I, the undersigned, certify that:

1. I am the duly elected and acting Secretary of TERRACINA COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation (the "*Association*"); and

2. The foregoing Bylaws comprising 29 pages (including this page) constitute the Bylaws of the Association duly adopted by the Association Board of Directors on _____, 20__.

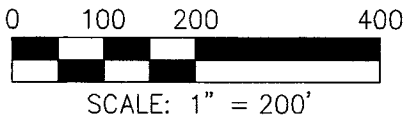
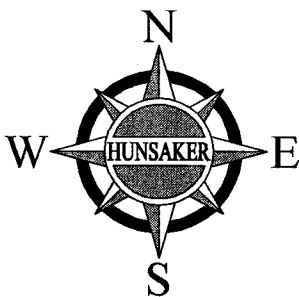
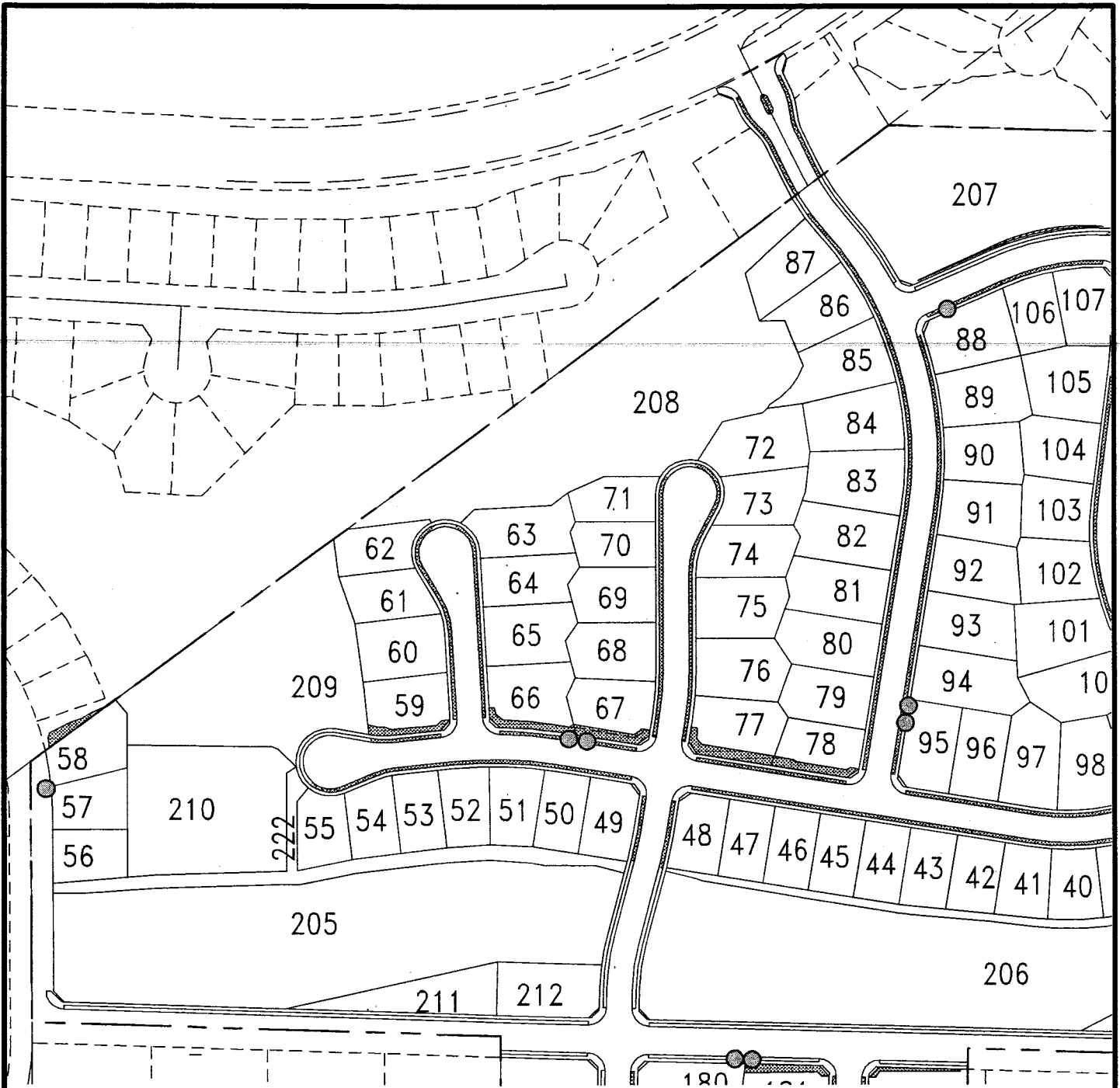
I have signed this Certificate and affixed the seal of the Association effective on _____, 20__.

_____,
_____, Secretary






(SEAL)

EXHIBIT E

**DRAWING SHOWING LOCATIONS OF ASSOCIATION MAINTENANCE AREAS IN
THE COMMUNITY**



LEGEND

-  ASSOCIATION MAINTENANCE AREAS
-  CLUSTERED MAILBOX LOCATIONS
-  GEOGRID RETAINING WALL
-  RETAINING WALL
-  COMMUNITY MONUMENTATION

**EXHIBIT "E" - TRACT 31597
ASSOCIATION MAINTENANCE AREAS**

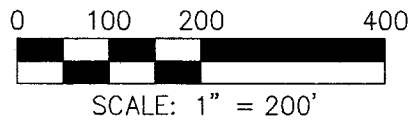
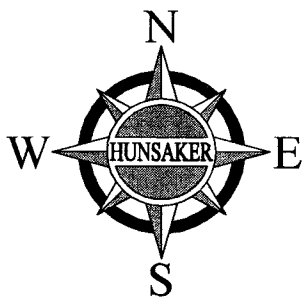
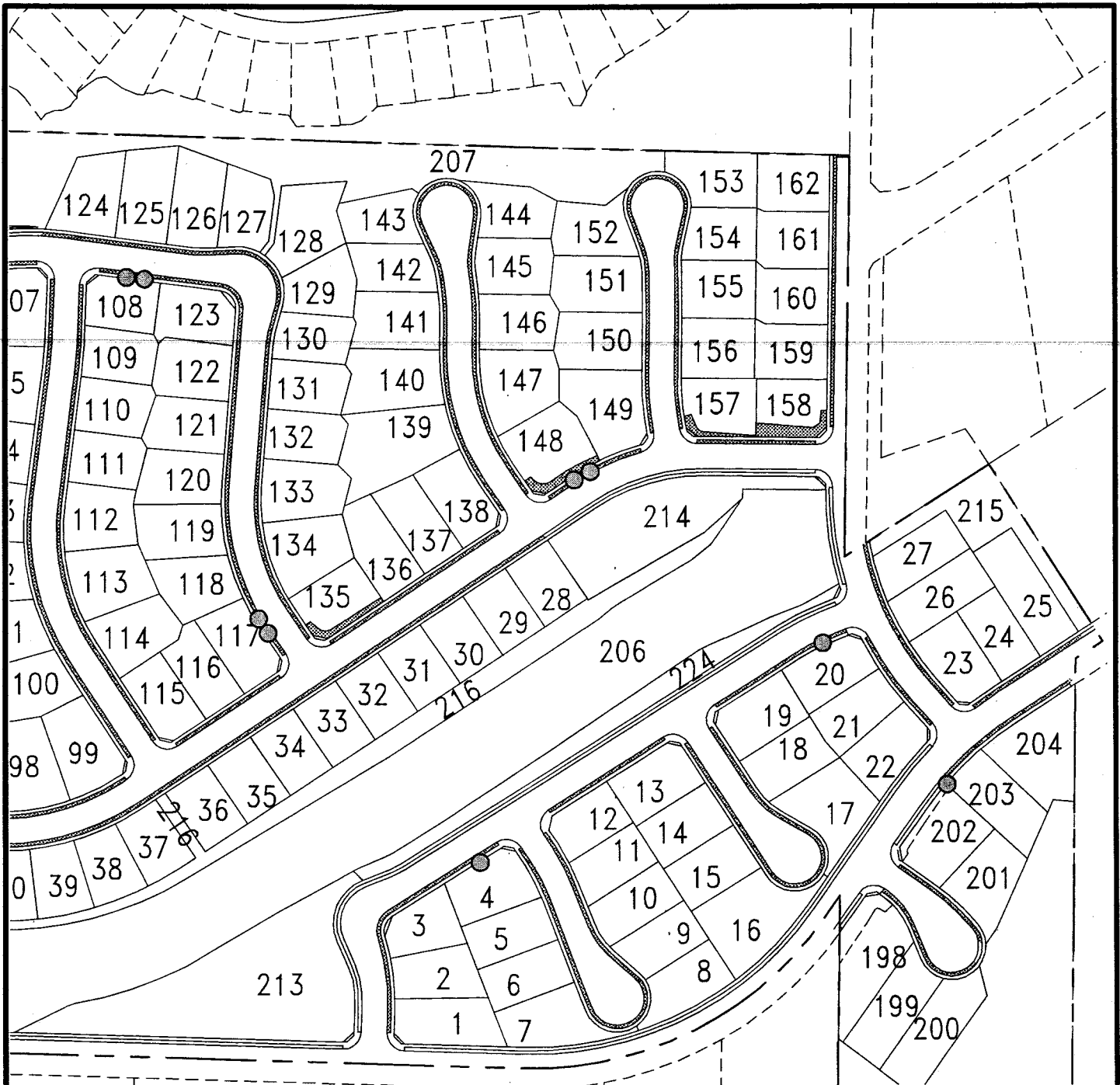
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DESIGNED:	DSF
CHECKED:	PRH



HUNSAKER & ASSOCIATES
 IRVINE, INC
 INLAND EMPIRE REGION
 2900 ADAMS STREET, SUITE A-15
 RIVERSIDE CA 92504 (951)352-7200
 PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS

SHEET
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 3

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LEGEND







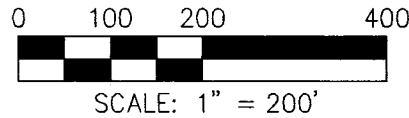
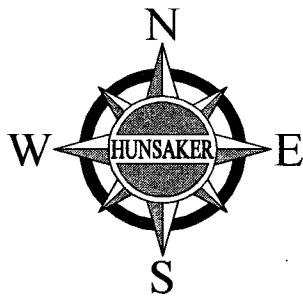
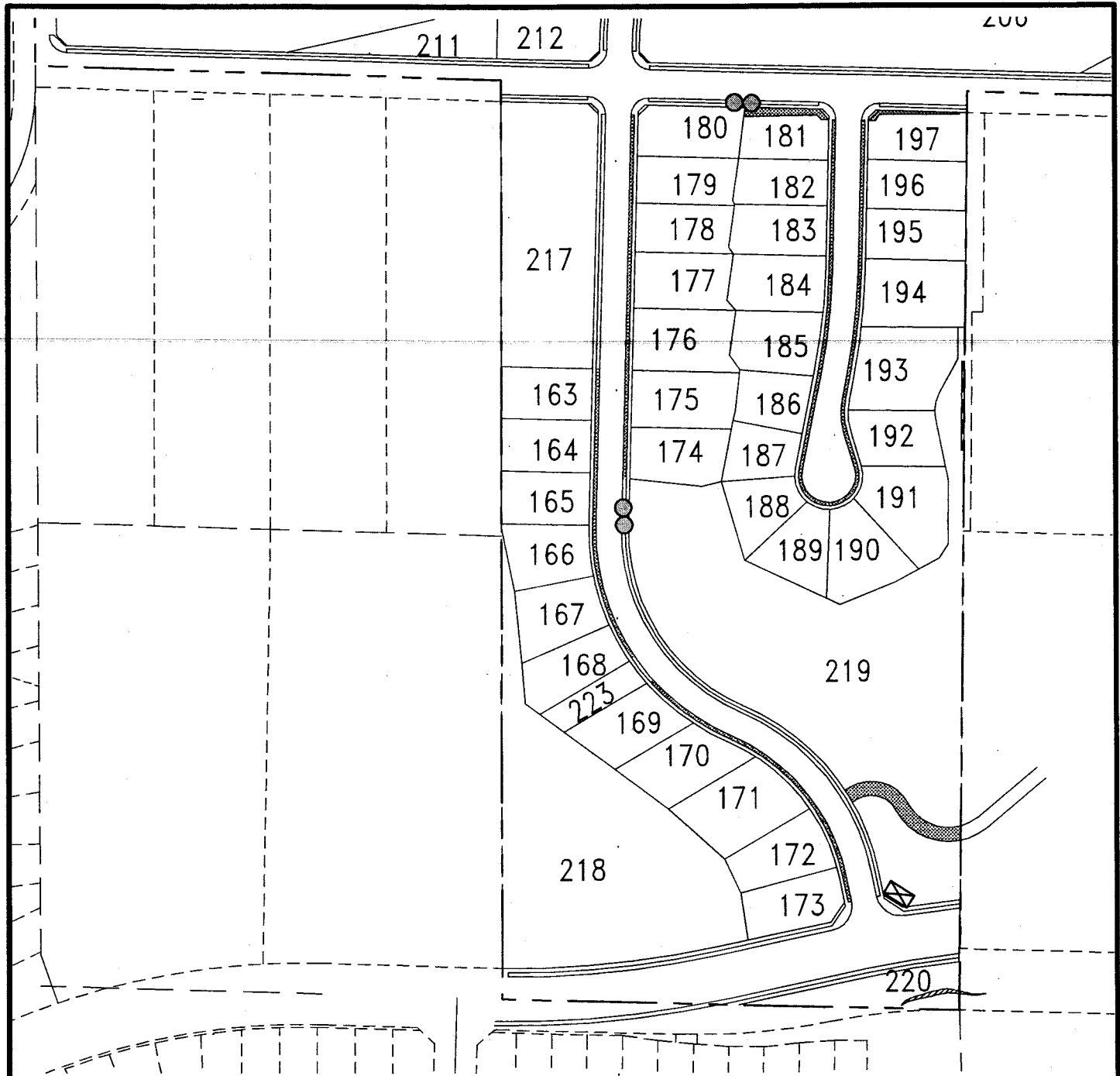





-  ASSOCIATION MAINTENANCE AREAS
-  CLUSTERED MAILBOX LOCATIONS
-  GEOGRID RETAINING WALL
-  RETAINING WALL
-  COMMUNITY MONUMENTATION

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ASSOCIATION MAINTENANCE AREAS			
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DATE: SEPT. 2015	DESIGNED: DSF	PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS	
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LEGEND

-  ASSOCIATION MAINTENANCE AREAS
-  CLUSTERED MAILBOX LOCATIONS
-  GEOGRID RETAINING WALL
-  RETAINING WALL
-  COMMUNITY MONUMENTATION

**EXHIBIT "E" - TRACT 31597
ASSOCIATION MAINTENANCE AREAS**

SCALE:	1" = 200'
DATE:	SEPT. 2015
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HUNSAKER & ASSOCIATES
IRVINE, INC
INLAND EMPIRE REGION
2900 ADAMS STREET, SUITE A-15
RIVERSIDE CA 92504 (951)352-7200
PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS

SHEET
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3

EXHIBIT F

**DRAWING SHOWING LOCATIONS OF ASSOCIATION MAINTENANCE AREAS IN
PHASE 1**

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 ASSOCIATION MAINTENANCE AREAS IN PHASE 1

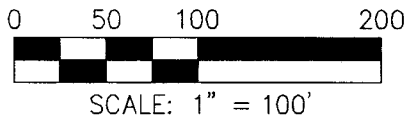
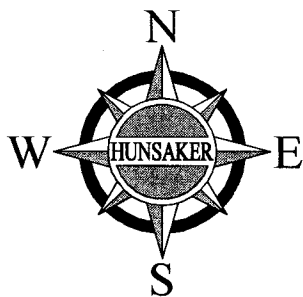



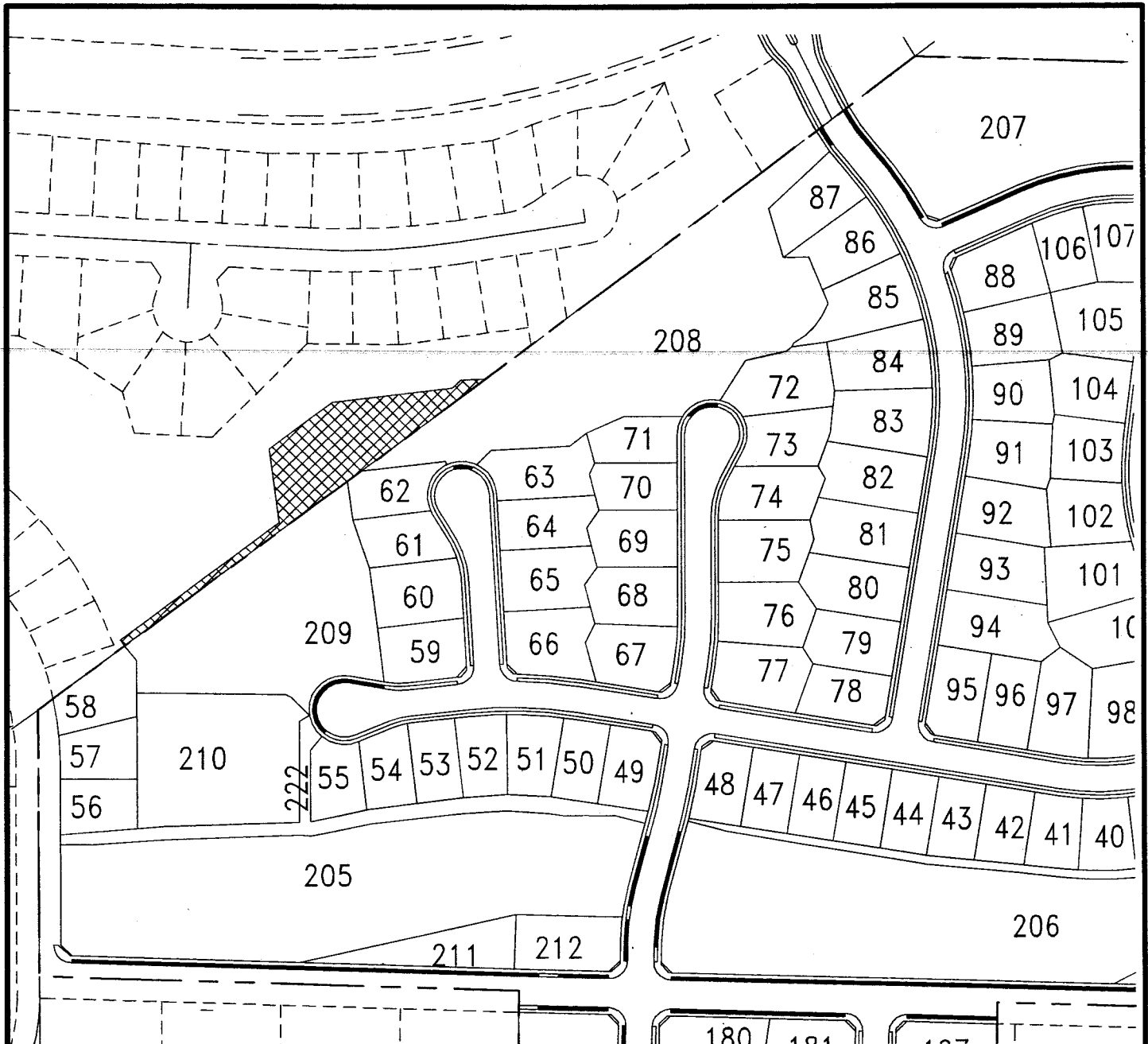




EXHIBIT F - TRACT 31597	
ASSOCIATION MAINTENANCE AREAS IN PHASE 1	
SCALE: 1" = 100'	 HUNSAKER & ASSOCIATES IRVINE, INC INLAND EMPIRE REGION 2900 ADAMS STREET, SUITE A-15 RIVERSIDE CA 92504 (951)352-7200 PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS
DATE: SEPT. 2015	
DESIGNED: DSF	
CHECKED: PRH	

EXHIBIT G

**DRAWING SHOWING LOCATIONS OF CSA MAINTENANCE AREAS IN THE
COMMUNITY**



LEGEND

-  CSA MAINTENANCE AREAS WITHIN THE PUBLIC RIGHT OF WAY
-  CSA MAINTENANCE AREAS ON RESIDENTIAL LOTS
-  CSA MAINTENANCE AREAS - LANDSCAPE AND IRRIGATION
-  CSA MAINTENANCE AREAS - FUEL MODIFICATION ONLY

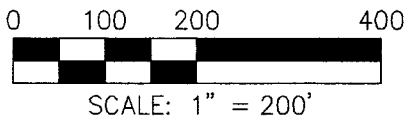
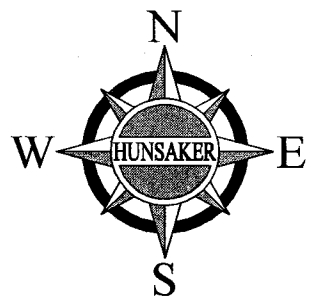

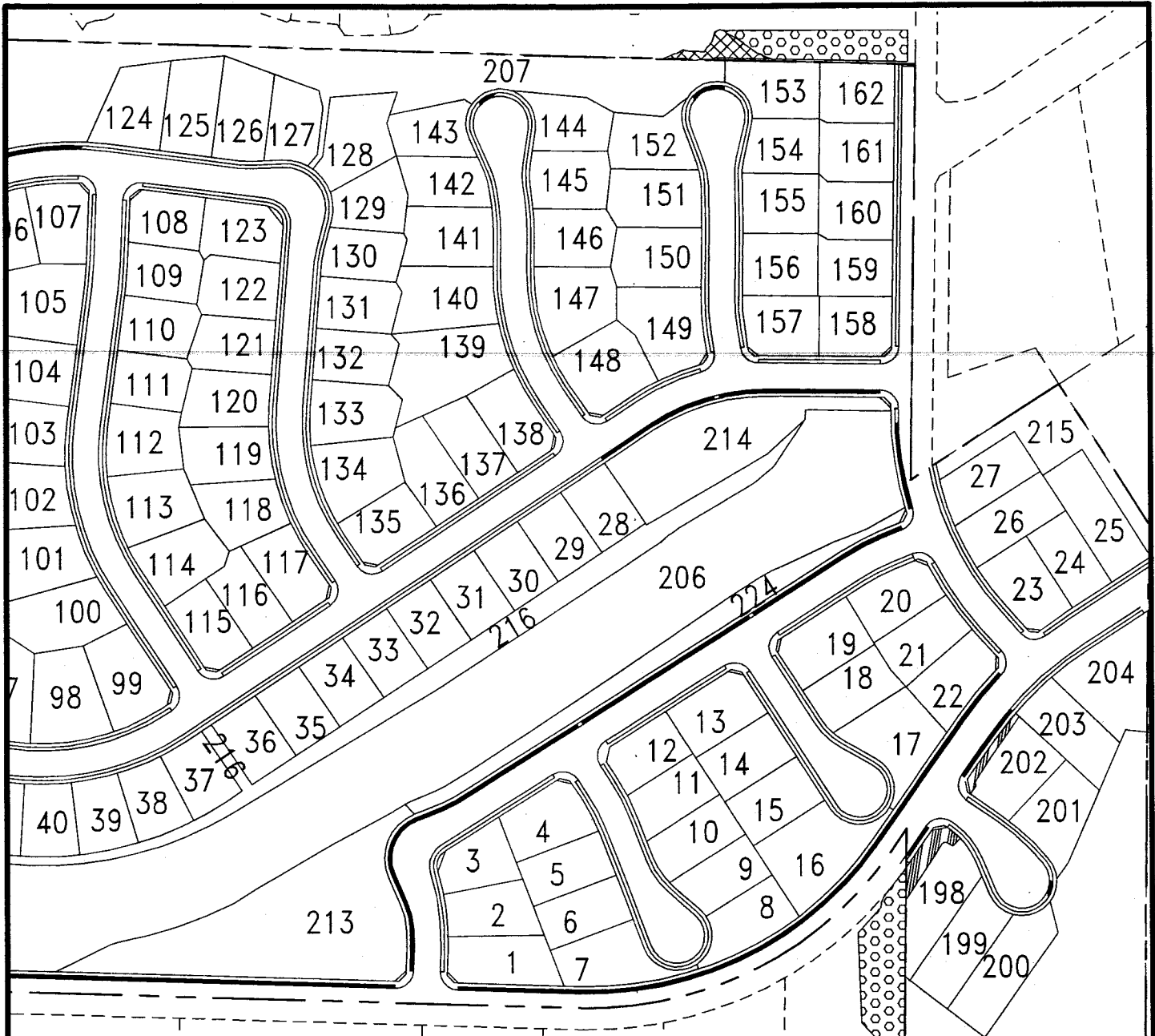




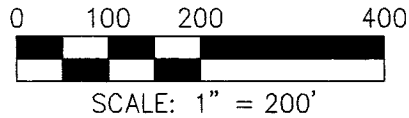
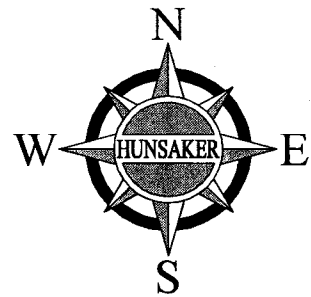


EXHIBIT "G" - TRACT 31597 CSA MAINTENANCE AREAS			SHEET 1 OF 3
SCALE:	1" = 200'	 HUNSAKER & ASSOCIATES IRVINE, INC INLAND EMPIRE REGION 2900 ADAMS STREET, SUITE A-15 RIVERSIDE CA 92504 (951)352-7200 PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS	
DATE:	SEPT. 2015		
DESIGNED:	DSF		
CHECKED:	PRH		



LEGEND

-  CSA MAINTENANCE AREAS WITHIN THE PUBLIC RIGHT OF WAY
-  CSA MAINTENANCE AREAS ON RESIDENTIAL LOTS
-  CSA MAINTENANCE AREAS - LANDSCAPE AND IRRIGATION
-  CSA MAINTENANCE AREAS - FUEL MODIFICATION ONLY



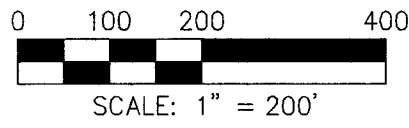
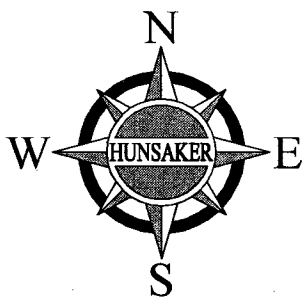
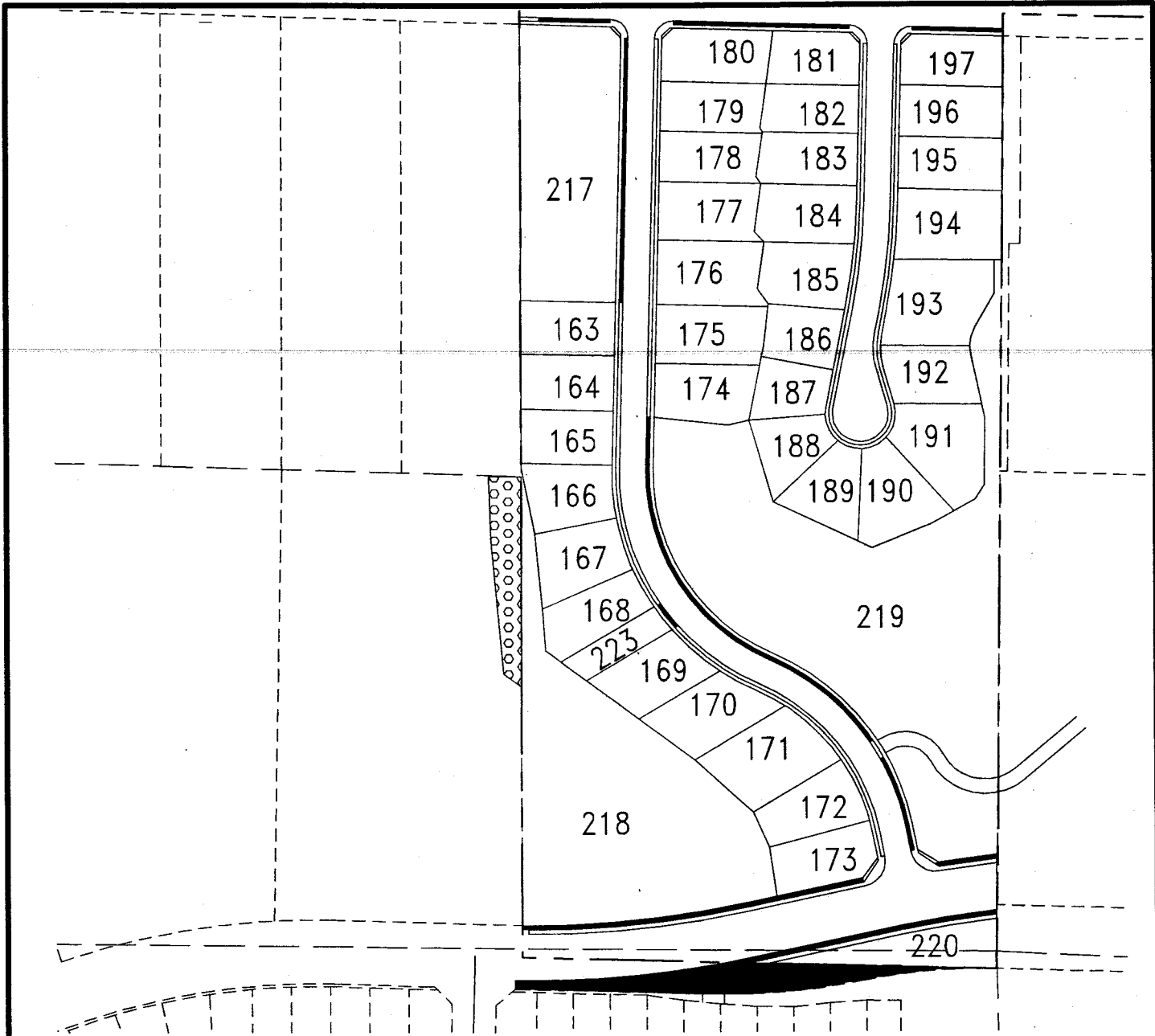
**EXHIBIT "G" - TRACT 31597
CSA MAINTENANCE AREAS**

SCALE:	1" = 200'
DATE:	SEPT. 2015
DESIGNED:	DSF
CHECKED:	PRH







HUNSAKER & ASSOCIATES
IRVINE, INC
INLAND EMPIRE REGION
2900 ADAMS STREET, SUITE A-15
RIVERSIDE CA 92504 (951)352-7200
PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS

SHEET
2
OF
3



LEGEND

-  CSA MAINTENANCE AREAS WITHIN THE PUBLIC RIGHT OF WAY
-  CSA MAINTENANCE AREAS ON RESIDENTIAL LOTS
-  CSA MAINTENANCE AREAS - LANDSCAPE AND IRRIGATION
-  CSA MAINTENANCE AREAS - FUEL MODIFICATION ONLY

**EXHIBIT "G" - TRACT 31597
CSA MAINTENANCE AREAS**

SCALE:	1" = 200'
DATE:	SEPT. 2015
DESIGNED:	DSF
CHECKED:	PRH



HUNSAKER & ASSOCIATES
IRVINE, INC
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PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS

SHEET
3
OF
3

EXHIBIT H

ALTERNATIVE DISPUTE RESOLUTION PROVISIONS

1. **DEFINITIONS.** For purposes of this *Exhibit H* (“*ADR Provisions*”) only, the capitalized terms listed below shall be defined as follows:
 - (a) “**Contract**” means a purchase and sale contract between Owner and Declarant for the purchase and sale of a Lot;
 - (b) “**Declarant**” or “**Declarant Party**” means and includes Declarant, any director, officer, partner, shareholders, member, employee, agent, or representative of Declarant, any affiliate of Declarant (other than an affiliated mortgage lender) and any contractor, subcontractor, design professional, engineer, or supplier who provided labor, services or materials to the Project and who is bound or has agreed to be bound to the following dispute notification and resolution procedures. The term also refers to Neighborhood Builders and to any officer, partner, shareholders, member, employee, agent, or representative of the Neighborhood Builder, any affiliate of the Neighborhood Builder (other than an affiliated mortgage lender) and any contractor, subcontractor, design professional, engineer, or supplier who provided labor, services or materials to the Project for the Neighborhood Builder and who is bound or has agreed to be bound to the following dispute notification and resolution procedures, in the event a dispute or controversy involving a Neighborhood Builder or any of the above-referenced parties is not a Neighborhood Builder Dispute under Section 12.7 of the Declaration, or in the event that a Neighborhood Builder has not made an election of alternative ADR process for resolution of “Neighborhood Builder Disputes” by following the procedures set forth in Section 12.7 of the Declaration. In such events, references to a limited warranty shall mean and refer to a written warranty provided by the Neighborhood Builder (if any) in lieu of the Declarant’s written warranty where applicable;
 - (c) “**Declaration**” means, collectively, the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Terracina, to which this Exhibit is attached, and all amendments thereto;
 - (d) “**Dispute**” means any and all actions or claims by, between and among any Declarant Party on the one hand, and any Owner/subsequent Owner and/or Association on the other hand, arising out of or in any way relating to the Project, any Lot(s) or Improvements in the Project, the Declaration, a Supplemental Declaration, a Contract, liquidated damages issues under a Contract, the Limited Warranty, and/or any other agreements or duties or liabilities as between any Declarant Party and an Owner/subsequent Owner and/or Association relating to the sale or transfer of the Lot and/or Common Area, or regarding the use or condition of the Lot and/or Common Area, or the design or construction of or any condition on or affecting the Project and/or any Lot or Common Area in the Project, including without limitation construction defects, surveys, soils conditions, grading, specifications, installation of Improvements, or disputes which allege strict liability, negligence or breach of

implied, express or statutory warranties as to the condition of the Lot, Common Area or other portions of the Project. Notwithstanding the foregoing, Disputes do not include matters involving actions taken by the Association against Declarant to collect delinquent Assessments or any action involving any common area completion bonds. The term shall also apply to actions or claims by, between and among the Association on the one hand, and any Neighborhood Builder and any director, officer, partner, shareholders, member, employee, agent, or representative of the Neighborhood Builder, any affiliate of the Neighborhood Builder (other than an affiliated mortgage lender) and any contractor, subcontractor, design professional, engineer, or supplier who provided labor, services or materials to the Project, on the other hand, notwithstanding the fact that the Neighborhood Builder has made the required election of alternative ADR Process in accordance with Section 12.7 of the Declaration;

- (e) **“Fix-It Law Claim”** means any claim by an Owner and/or Association made in compliance with California Civil Code Section 910 alleging that Declarant Party contributed to or is otherwise responsible for a violation of the standards set forth in California Civil Code Sections 896 through 897;
- (f) **“Limited Warranty”** means that certain form of Home Builder’s Limited Warranty issued to Owner after the Close of Escrow (or to the Association after the transfer of Common Area) which is substantially in the form of *Exhibit I* attached hereto and more particularly described in Section 12.5 of the Declaration;
- (g) **“Owner”** means each Owner (as defined in the Declaration), any individual or entities comprising such Owner, any representative of Owner acting with respect to Owner’s rights (including without limitation any class representative or homeowners’ association so acting), and any successor or assign of Owner with respect to such Owner’s Lot, the Contract, the Limited Warranty, or any other agreements or obligations with respect to Declarant, the Lot or the Project;
- (h) **“Project”** means the development, construction and marketing of the Lots, the Common Area, and the Community (defined in the Declaration) of which it is a part;
- (i) **“Supplemental Declaration”** means any Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements and Notice of Addition, which is recorded against the Project by Declarant, or a Neighborhood Builder with Declarant’s consent, pursuant to Article XVI of the Declaration.

2. **FIX-IT LAW NONADVERSARIAL DISPUTE RESOLUTION PROCEDURES.** These ADR Provisions set forth dispute resolution procedures which apply after application of any “nonadversarial dispute resolution” procedures required for Fix-It Law Claims, as set forth in California Civil Code Sections 910 through 938. Nothing herein diminishes the rights and obligations of the Association, an Owner, or a Declarant Party under the nonadversarial dispute resolution procedures set forth in California Civil Code Sections 910 through 938 with respect to any Fix-It Law Claim.

3. **ARBITRATION OF DISPUTES.**

- (a) **BINDING ARBITRATION.** WITH RESPECT TO ALL DISPUTES (WHETHER OR NOT RELATING TO THE LIMITED WARRANTY), DECLARANT, THE OWNER AND THE ASSOCIATION (COLLECTIVELY, THE "**PARTIES**") SHALL COMPLY WITH THE DISPUTE RESOLUTION AND ARBITRATION PROCEDURES AND PROVISIONS SPECIFIED IN THE LIMITED WARRANTY. THE LIMITED WARRANTY GENERALLY PROVIDES THAT ALL DISPUTES BE SUBMITTED FOR RESOLUTION BY BINDING ARBITRATION TO DEMARS AND ASSOCIATES, LTD. (WWW.DEMARSASSOCIATES.COM) ("**DEMARS**"), PURSUANT TO ITS CONSTRUCTION ARBITRATION PROGRAM (OR BY SUCH OTHER NEUTRAL, INDEPENDENT ARBITRATION SERVICE THAT PROFESSIONAL WARRANTY SERVICE CORPORATION ("**PWC**") (THE ADMINISTRATOR OF THE LIMITED WARRANTY) SHALL APPOINT). THE ASSOCIATION AND/OR AN OWNER MAY OBJECT TO THE USE OF DEMARS OR THE ARBITRATION SERVICE APPOINTED BY PWC (BUT NOT TO THE BINDING ARBITRATION PROCEDURE ITSELF) BY FOLLOWING THE PROCEDURES SET FORTH IN THE LIMITED WARRANTY.
- (b) **WAIVER OF LITIGATION RIGHTS.** THE PARTIES ACKNOWLEDGE AND AGREE THAT BY AGREEING TO BINDING ARBITRATION AS PROVIDED HEREIN: (i) EACH PARTY IS GIVING UP THE RIGHTS SUCH PARTY MIGHT POSSESS TO HAVE A DISPUTE LITIGATED IN A COURT OR JURY TRIAL; (ii) EACH PARTY'S DISCOVERY AND APPEAL RIGHTS WILL BE LIMITED, AND (iii) EACH PARTY'S AGREEMENT TO THESE ADR PROVISIONS IS VOLUNTARY AND SUCH PARTY UNDERSTANDS ITS PROVISIONS. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE HAD THE OPPORTUNITY TO BE ADVISED BY INDEPENDENT LEGAL COUNSEL IN CONNECTION WITH THESE ADR PROVISIONS AND IN MAKING THESE WAIVERS. THE PARTIES FURTHER ACKNOWLEDGE AND UNDERSTAND THE MEANING AND RAMIFICATIONS OF THESE WAIVERS, AND INTEND THESE WAIVERS BE READ AS BROADLY AS POSSIBLE AND TO EXTEND TO ALL DISPUTES EXCEPT AS OTHERWISE PROVIDED HEREIN. HOWEVER, THESE ADR PROVISIONS SHALL IN NO WAY BE CONSTRUED TO LIMIT THE RIGHT OF ANY PARTY TO BE REPRESENTED BY COUNSEL IN ANY PROCEDURES PURSUANT TO THESE ADR PROVISIONS.
- (c) **CHOICE OF LAW AND SCOPE OF ARBITRATOR'S AUTHORITY.** ALL DISPUTES SHALL BE GOVERNED, INTERPRETED AND ENFORCED ACCORDING TO THE FEDERAL ARBITRATION ACT (9 U.S.C. §§ 1-16), WHICH IS DESIGNED TO ENCOURAGE USE OF ALTERNATIVE METHODS OF DISPUTE RESOLUTION THAT AVOID COSTLY AND POTENTIALLY LENGTHY COURT PROCEEDINGS. INTERPRETATION AND APPLICATION OF THESE PROCEDURES SHALL CONFORM TO FEDERAL

COURT RULINGS INTERPRETING AND APPLYING THE FEDERAL ARBITRATION ACT. REFERENCES TO STATE LAW SHALL NOT BE CONSTRUED AS A WAIVER OF ANY RIGHTS OF THE PARTIES UNDER THE FEDERAL ARBITRATION ACT OR THE RIGHT OF THE PARTIES TO HAVE THE PROCEDURES SET FORTH IN THE LIMITED WARRANTY AND ELSEWHERE WITHIN THESE ADR PROVISIONS INTERPRETED AND ENFORCED UNDER THE FEDERAL ARBITRATION ACT. HOWEVER, TO THE EXTENT NECESSARY, AND WHENEVER SUCH LAWS ARE NOT IN CONFLICT WITH OTHER PROVISIONS OF THESE ADR PROVISIONS OR ~~THE PROCEDURES OF ANY SELECTED ALTERNATIVE DISPUTE~~ RESOLUTION SERVICE, THE ARBITRATOR SHALL APPLY THE LAWS OF THE STATE OF CALIFORNIA, AND THE ARBITRATOR'S AWARD MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION. THE ARBITRATOR SHALL HAVE THE AUTHORITY TO TRY AND SHALL TRY ALL ISSUES, WHETHER OF FACT OR LAW, INCLUDING WITHOUT LIMITATION, THE VALIDITY, SCOPE AND ENFORCEABILITY OF THESE ADR PROVISIONS, AND MAY ISSUE ANY REMEDY OR RELIEF THAT THE COURTS OF THE STATE OF CALIFORNIA COULD ISSUE IF PRESENTED THE SAME CIRCUMSTANCES. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THESE ADR PROVISIONS AND THE PROCEDURES SPECIFIED IN THE LIMITED WARRANTY (AS REFERENCED IN PARAGRAPH 3(a)), THE TERMS OF THESE ADR PROVISIONS WILL CONTROL.

- (d) **NO RECOVERY OF ATTORNEYS' FEES OR EXPERT WITNESS FEES.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES WAIVE ANY RIGHT TO RECOVER ATTORNEYS' OR EXPERT WITNESS FEES INCURRED IN ANY DISPUTE.
- (e) **ARBITRATION FILING FEES AND FEES CHARGED BY ARBITRATION SERVICE.** DECLARANT SHALL INITIALLY ADVANCE (OR, UPON SATISFACTORY EVIDENCE, REIMBURSE) THE AMOUNT OF ANY ARBITRATION INITIATION/FILING FEES IN EXCESS OF THE AMOUNT OF THE FILING FEES FOR A CIVIL LAWSUIT REQUIRED UNDER APPLICABLE LOCAL LAW AT THE TIME THE ARBITRATION/FILING FEES ARE INCURRED. OTHER AND/OR ONGOING FEES AND COSTS OF THE ARBITRATOR SHALL BE DIVIDED EQUALLY BETWEEN THE CLAIMANT(S), ON THE ONE HAND, AND DECLARANT AND ANY OTHER PARTIES TO THE PROCEEDING, ON THE OTHER HAND. IN THE EVENT THAT ANY OF THE FOREGOING PROVISIONS FOR THE PAYMENT OF THE ARBITRATOR'S FEES AND COSTS ARE DETERMINED BY THE ARBITRATOR, OR BY A COURT, TO BE UNENFORCEABLE FOR ANY REASON, THEN SUCH UNENFORCEABLE PROVISIONS SHALL BE DEEMED SEVERED AND DECLARANT SHALL INSTEAD ADVANCE ALL ARBITRATOR FEES AND COSTS ASSOCIATED WITH THE PROCEEDING. IN ANY EVENT, THE ARBITRATOR MAY ULTIMATELY REALLOCATE SUCH FEES AND COSTS (BUT NOT THE ATTORNEYS' AND EXPERT FEES

OF THE PARTIES) AMONG ALL PARTIES TO THE PROCEEDING, IN HIS OR HER DISCRETION AS THE INTERESTS OF JUSTICE DICTATE.

4. **SURVIVAL OF PROVISIONS.** If any provision or part of these ADR Provisions is for any reason held to be invalid, unenforceable or contrary to any public policy, law, statute and/or ordinance, then the remainder of these ADR Provisions shall not be affected thereby and shall remain valid and fully enforceable.
5. **WAIVER OF JURY TRIAL.** IN THE EVENT THAT THE DISPUTE RESOLUTION PROCEDURES SET FORTH OR REFERENCED HEREIN ARE DETERMINED TO BE INVALID OR UNENFORCEABLE IN WHOLE OR IN PART, SUCH THAT THE DISPUTE PROCEEDS BY WAY OF CIVIL LITIGATION PROCEEDINGS IN ANY COURT, THE PARTIES NONETHELESS WAIVE ANY AND ALL RIGHTS TO A JURY TRIAL TO THE EXTENT SUCH WAIVER IS NOT EXPRESSLY PROHIBITED BY STATUTE OR CONSTITUTION. THE PARTIES MAKE THESE WAIVERS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY.
6. **DISPUTES TO BE RESOLVED INDEPENDENTLY.** Notwithstanding the definition of "Owner" in Paragraph 1 above, Declarant and each Owner agree that it is in the best interest of Declarant and such Owner that the dispute resolution procedures set forth in these ADR Provisions be utilized independently of any actions (including actions brought pursuant to alternative dispute resolution procedures) involving Disputes between Declarant and other Owners. Accordingly, each Owner knowingly waives any right to participate in any form of "class," "joint" or "representative" litigation (including in any "private attorney general capacity") or dispute resolution procedures against Declarant. Each Owner and Declarant make this agreement on the grounds that they wish to assure, in advance, that any Disputes, actions or claims by or between such Owner and Declarant will not be combined with the Disputes, actions or claims by or between Declarant and any other Owner. Each Owner and Declarant include this provision on the additional grounds that: (i) such Owner's Lot is unique from other properties in the Project, and any potential problems it may suffer will not necessarily be common to other properties; (ii) it may provide such Owner increased ability to control any Dispute involving the Lot; (iii) such Owner's interests will not be subordinated to the interests of other parties who might otherwise become involved in these Dispute resolution procedures; (iv) this approach is likely to foster faster resolution of most Disputes that may arise; (v) it will help to avoid conflicts of interest among such Owner's and Declarant's representatives; and (vi) it is intended to foster better communication between such Owner and Declarant focused on resolving the actual issues that may arise in any Dispute between them. Notwithstanding the foregoing, the restrictions of this Paragraph 6 shall not apply to actions (including actions brought pursuant to alternative dispute resolution procedures) for damages in the amount of One Thousand Dollars (\$1000) or less per action (including actions brought pursuant to alternative dispute resolution procedures); provided however, that each Owner shall still be required to meet any legal requirements for any form of "class," "joint" or "representative" litigation or dispute resolution procedures with respect to such actions.

7. **DISPUTES UNDER FHA/VA WARRANTY.** Notwithstanding the provisions set forth above, this Paragraph 7 shall apply to the extent an Owner is issued a builder's limited warranty approved by U.S. Department of Housing and Urban Development for issuance to certain Federal Housing Administration or Veterans Administration Financed Buyers ("*FHA/VA Warranty*"). With respect to all Disputes arising out of a FHA/VA Warranty ("*FHA/VA Warranty Disputes*"), Declarant and such Owner shall comply with the Dispute resolution procedures and provisions specified in the FHA/VA Warranty. Specifically, the Parties agree that the arbitration of FHA/VA Warranty Disputes shall not be mandatory; provided however, that in the event of an action in a court of law, the waiver of jury trial set forth in Paragraph 5 shall remain effective. All other Disputes shall continue to be governed by the provisions set forth above, including, without limitation, the provisions requiring binding arbitration. However, in the event that Owner files an action in a court of law regarding an FHA/VA Dispute while at the same time pursuing an arbitration for other Disputes, Declarant may elect to have all Disputes resolved in the court action.
8. **COOPERATION CLAUSE.** The Parties to any Dispute shall at all times cooperate so as to permit compliance with the terms of these ADR Provisions and to accomplish their purposes.
9. **CHOICE OF FORUM CLAUSE.** In the event any Party to a Dispute subject to these ADR Provisions seeks review by a court of the enforceability of any of the ADR Provisions set forth or referenced herein (despite the provisions herein making that issue one to be resolved by the arbitrator or general referee), the exclusive jurisdiction and venue for any such review shall be the Federal District Court for the county in which the Project is located.

EXHIBIT I
HOME BUILDER'S LIMITED WARRANTY

SAMPLE

HOME BUILDER'S LIMITED WARRANTY

Administered by Professional Warranty Service Corporation ("PWC")

TABLE OF CONTENTS

Introduction

Section I.	Warranty Coverage
Section II.	OUR Warranty Obligations
Section III.	Homeowner Maintenance Obligations
Section IV.	Coverage Limitations
Section V.	Exclusions
Section VI.	Procedure to Request US To Perform Under This LIMITED WARRANTY
Section VII.	Binding Arbitration Procedure
Section VIII.	General Conditions
Section IX.	Definitions

Binding Arbitration Request Form

Subsequent Home Buyer Acknowledgment and Transfer Form

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY BE
ENFORCED BY EITHER PARTY**

SAMPLE - PWC FORM NO. 117CA Rev. 01/2007

Throughout this **HOME BUILDER'S LIMITED WARRANTY**, referred to hereinafter as the "**LIMITED WARRANTY**", the words "**YOU**" and "**YOUR**" refer to the **HOMEOWNER**, including any subsequent owners, and, where applicable, a **HOMEOWNERS ASSOCIATION**. The words "**WE**", "**US**" and "**OUR**" refer to the **BUILDER**. The other words and phrases which appear in boldface uppercase type also have special meaning. Refer to the **Section IX. Definitions**, so that **YOU** will understand the terminology applicable to this **LIMITED WARRANTY**.

This **LIMITED WARRANTY** establishes an agreed method for determining when a **CONSTRUCTION DEFECT** exists and a clear understanding of **OUR** responsibilities for remedying any such **CONSTRUCTION DEFECT**. This **LIMITED WARRANTY** also helps distinguish a **CONSTRUCTION DEFECT** that is **OUR** responsibility from those minor imperfections that can reasonably be expected in a **HOME** or the **COMMON ELEMENTS**, or that result from normal wear and tear or the neglect of routine **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** maintenance responsibilities.

This **LIMITED WARRANTY** contains the procedures **YOU** must use to notify **US** of a condition in **YOUR HOME** or the **COMMON ELEMENTS** which **YOU** believe may constitute a **CONSTRUCTION DEFECT**. In the event a condition occurs in the **HOME** or the **COMMON ELEMENTS** that **YOU** believe may constitute a **CONSTRUCTION DEFECT**, **YOU** agree to submit any request for warranty performance in accordance with the procedure described in this **LIMITED WARRANTY**. Based on the information **YOU** provide and, where **WE** deem it necessary, information obtained from **OUR** onsite investigation, inspection and/or testing of the **HOME** or the **COMMON ELEMENTS**, **WE** will determine whether **WE** agree with **YOU** that the condition constitutes a **CONSTRUCTION DEFECT**. If **WE** determine that the condition reported by **YOU** is a **CONSTRUCTION DEFECT**, **WE** will remedy the condition in accordance with the remedies prescribed in this **LIMITED WARRANTY**. **WE** will make this determination in accordance with **Section II, OUR Warranty Obligations**, contained in this **LIMITED WARRANTY**.

THIS LIMITED WARRANTY PROVIDES THAT ANY AND ALL CLAIMS AND DISPUTES BETWEEN YOU AND US WHICH YOU AND WE ARE UNABLE TO RESOLVE BY MUTUAL AGREEMENT, SHALL BE RESOLVED SOLELY AND EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION IN ACCORDANCE WITH THE TERMS AND PROCESS DESCRIBED WITHIN THIS DOCUMENT. BY THIS AGREEMENT, BOTH YOU AND WE ARE WAIVING THE RIGHT TO LITIGATE DISPUTES IN COURT.

To the extent permitted by law, all express or implied warranties other than this **LIMITED WARRANTY**, including any oral or written statement or representation made by **US** or any other person, and any implied warranty of habitability, merchantability or fitness for a particular purpose, are hereby disclaimed by **US** and are waived by **YOU**. **YOUR** only remedy in the event of a **CONSTRUCTION DEFECT** in or to the **HOME** or the **COMMON ELEMENTS** or to the real property on which the **HOME** or the **COMMON ELEMENTS** is situated is that provided to **YOU** under this **LIMITED WARRANTY**. Notwithstanding the foregoing, nothing in this **LIMITED WARRANTY** shall diminish any rights, obligations, or remedies that **YOU** or **WE** may have under California Civil Code Sections 895 through 945.5 or under any procedures adopted in place of California Civil Code Sections 910 through 938.

Enclosed with this **LIMITED WARRANTY** is a Limited Warranty Validation Form. The Limited Warranty Validation Form is a part of the **LIMITED WARRANTY** and provides the dates on which the warranty coverage period begins and expires. It is important that this form be retained with the **LIMITED WARRANTY**.

WE have contracted with **PWC** for certain administrative services relative to this **LIMITED WARRANTY**. **PWC's** sole responsibility is to provide administrative services as set forth herein. Under no circumstances or conditions is **PWC** responsible for fulfilling **OUR** obligations under this **LIMITED WARRANTY**.

There may be instances where an additional **PWC** administered Builder's Limited Warranty is issued together with this **LIMITED WARRANTY**. If both of these warranties are issued to **YOU**, **YOU** agree to request warranty performance under either warranty relative to warrantable issues on the **HOME** or the **COMMON ELEMENTS**. **YOU** may not collect twice relative to the same issue.

If any provision of this **LIMITED WARRANTY** is determined to be unenforceable, such a determination will not

affect the remaining provisions. If this **LIMITED WARRANTY** or any provision herein is determined to be unenforceable as to a **HOMEOWNERS ASSOCIATION** or a specific **HOMEOWNER**, such a determination will not affect the enforceability of this **LIMITED WARRANTY** or such provision as to any other **HOMEOWNERS ASSOCIATION** or any other **HOMEOWNER**. Any dispute as to the enforceability of any provision of this **LIMITED WARRANTY**, including any dispute as to the scope or enforceability of the arbitration provision contained herein, shall be determined by binding arbitration as provided for in this **LIMITED WARRANTY**.

I. Warranty Coverage

Coverage under this **LIMITED WARRANTY** is expressly limited to **CONSTRUCTION DEFECTS** which occur during the **WARRANTY PERIOD** indicated on the Limited Warranty Validation Form and which are reported by **YOU** in accordance with the notification requirements of **Section VI. Procedure to Request US To Perform Under This LIMITED WARRANTY**. **OUR** obligations under this **LIMITED WARRANTY** apply to workmanship actually performed and materials actually installed in the **HOME** or the **COMMON ELEMENTS**. Any failure by **US** to complete construction of the **HOME** or **COMMON ELEMENTS**, where such failure is apparent and obvious, is not covered by this **LIMITED WARRANTY** and is not a **CONSTRUCTION DEFECT**.

During the **WARRANTY PERIOD** indicated on the Limited Warranty Validation Form, **WE** warrant that the **HOME** and the **COMMON ELEMENTS** will be free of **CONSTRUCTION DEFECTS**. **OUR** obligation to perform under this **LIMITED WARRANTY** requires that **WE** must receive written notice from **YOU** of the alleged **CONSTRUCTION DEFECT** as soon as reasonably possible after **YOU** become aware of a **CONSTRUCTION DEFECT** but not later than thirty (30) days after the expiration of the coverage. Telephonic or face-to-face discussion is not a substitute for required written notice and will not protect **YOUR** rights under this **LIMITED WARRANTY** (see **Section VI. Procedure to Request US To Perform Under This LIMITED WARRANTY**).

II. OUR Warranty Obligations

Upon **OUR** timely receipt of written notice from **YOU** alleging a **CONSTRUCTION DEFECT** during the **WARRANTY PERIOD**, **WE**, or parties acting on **OUR** behalf, will, where **WE** deem it necessary, inspect, investigate and/or test (including destructive testing) the condition alleged to be a **CONSTRUCTION DEFECT**. If **WE** determine that a **CONSTRUCTION DEFECT** exists, **WE**, or parties acting on **OUR** behalf, will (1) repair or replace the **CONSTRUCTION DEFECT**, (2) pay to **YOU** the actual amount it would cost **US** to repair or replace the **CONSTRUCTION DEFECT**, or (3) pay to **YOU** an amount equal to the diminution in fair market value caused by the uncorrected **CONSTRUCTION DEFECT**. Subject to the limitations described in **Section IV. Coverage Limitations**, if the **HOME** is rendered temporarily uninhabitable by a **CONSTRUCTION DEFECT** or by work necessary to repair a **CONSTRUCTION DEFECT**, **WE** shall pay the reasonable cost for **YOUR** alternate shelter, storage expenses and lost business income (if the **HOME** was used as a principal place of business licensed to be operated from the **HOME**) until the **HOME** is restored to a habitable condition. Additionally, in connection with **OUR** remedy of a **CONSTRUCTION DEFECT**, and subject to the limitations described in **Section IV. Coverage Limitations**, **WE** shall repair, replace or pay the reasonable cost for:

- Those surfaces, finishes and coverings that are part of the **HOME** and that are damaged directly by a **CONSTRUCTION DEFECT** or that are damaged in the course of **OUR** repair of a **CONSTRUCTION DEFECT**.
- Home furnishings, carpet or personal property damaged directly by the **CONSTRUCTION DEFECT**.

The decision to repair, replace, or to make payment in lieu of repair or replacement is at **OUR** or **OUR** authorized representative's sole discretion. These remedies are **OUR** only obligations under this **LIMITED WARRANTY**.

A. Standards By Which the Existence of a **CONSTRUCTION DEFECT** Will Be Determined:

The following factors will be considered in determining whether a condition constitutes a **CONSTRUCTION DEFECT**. If **WE** dispute the existence of a **CONSTRUCTION DEFECT** and that dispute is submitted to binding arbitration, the parties agree these same factors will be considered by the arbitrator:

1. Any performance standards, tolerances or guidelines, including those applicable to the "fit and finish" of cabinets, mirrors, flooring, interior and exterior walls, countertops, paint finishes, and trim which are warranted for the first year of the **WARRANTY PERIOD**, contained in documents provided to **YOU** by **US** at or prior to closing on the **HOME** or, in the case of a **HOMEOWNERS ASSOCIATION**, prior to transferring title or control to all the **COMMON ELEMENTS**. In the absence of a specific standard, tolerance or guideline in the documents for a condition occurring during the first year of the **WARRANTY PERIOD**, the Residential Construction Performance Guidelines published by the National Association of Home Builders, in effect at the time of construction of the **HOME** or, in the case of the **HOMEOWNERS ASSOCIATION**, at the time of construction of the **COMMON ELEMENTS**, shall apply to the aforementioned "fit and finish items". If no specific standard, tolerance or guideline is contained in any of the documents identified above, generally accepted local building practices and standards shall apply;
2. Consideration as to whether the condition:
 - materially affects the structural integrity of the **HOME** or **COMMON ELEMENTS**; or
 - has an obvious and material negative impact on the appearance of the **HOME** or **COMMON ELEMENTS**; or
 - jeopardizes the life or safety of the occupants of the **HOME** or the users of the **COMMON ELEMENTS**; or
 - results in the inability of the **HOME** or a **COMMON ELEMENT** to provide the functions that can reasonably be expected in such a **HOME** or **COMMON ELEMENT**.
3. Consideration as to whether a condition is the result of normal wear and tear. Conditions that are normal wear and tear, or that are caused by normal wear and tear are not **CONSTRUCTION DEFECTS**;
4. Consideration as to whether the condition was caused by, or in any way resulted from, the failure of the **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** to perform normal or routine maintenance. Any condition that is determined to be a **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** maintenance issue, or any condition that results from improper or inadequate **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** maintenance, is not a **CONSTRUCTION DEFECT**;
5. Consideration as to whether the condition was caused by persons or entities other than **US** or someone acting on **OUR** behalf. Damage caused by persons or entities other than **US** or someone acting on **OUR** behalf is not a **CONSTRUCTION DEFECT**. For example, a large, visible scratch on marble tile in the entry foyer that was not noted in the pre-closing walk through inspection, but was reported after furniture was moved into the **HOME**, will not be considered a **CONSTRUCTION DEFECT**;
6. Recognition that any condition resulting directly or indirectly from or worsened by changes, additions, alterations or other actions or omissions by persons or entities other than **US** or someone acting on **OUR** behalf, will not be considered a **CONSTRUCTION DEFECT** (this includes, for example, changes to the topography, drainage or grade of the property);
7. Any **Exclusions** contained in this **LIMITED WARRANTY**.

III. Homeowner Maintenance Obligations

Maintenance of the **HOME** and the **COMMON ELEMENTS** is **YOUR** responsibility. All homes and common elements require periodic maintenance to prevent premature deterioration, water intrusion, and to ensure adequate performance of the **SYSTEMS**. **WE** will make a "Homeowner Maintenance Manual" or similar publication available to **YOU** upon request. Whether from this document or others that are readily available to **YOU**, **YOU** must understand and perform the maintenance that the **HOME** and **COMMON ELEMENTS** require. **WE** are not responsible for **HOME** or **COMMON ELEMENTS** maintenance issues or for damage that results from **YOUR** failure to maintain the **HOME** or the **COMMON ELEMENTS**.

IV. Coverage Limitations

Surfaces, finishes and coverings in the **HOME** which require repair due to damage caused by a **CONSTRUCTION DEFECT**, or such damage caused in the course of **OUR** repair of a **CONSTRUCTION DEFECT**, shall be repaired and restored to approximately the same condition as existed prior to the **CONSTRUCTION DEFECT**, but not necessarily to a like new condition. When repairing or replacing surfaces, finishes and coverings, the repair or replacement will attempt to achieve as close a match with the original surrounding areas as is reasonably possible, but an exact match cannot be guaranteed due to such factors as fading, aging and unavailability of the same materials.

Home furnishings, carpet or personal property damaged by a **CONSTRUCTION DEFECT** shall be repaired or replaced at market value of the item at the time of damage. "Market value" shall mean the amount it would cost to repair or replace the damaged item with material of like kind and quality, less allowance for physical deterioration and depreciation, including obsolescence.

Alternate shelter, storage expenses and lost business income (if the **HOME** was used as a principal place of business licensed to be operated from the **HOME**) during such time as the **HOME** is uninhabitable due to a **CONSTRUCTION DEFECT** or uninhabitable during work to repair a **CONSTRUCTION DEFECT**, shall be limited to those shelter, storage and other costs expressly pre-approved by **US** or **OUR** designated representative.

V. Exclusions

- A. This **LIMITED WARRANTY** does not cover:
1. Any loss or damage resulting, either directly or indirectly, from the following causes, or occurring in the following situations:
 - a. Fire (unless caused by a **CONSTRUCTION DEFECT**);
 - b. Lightning;
 - c. Explosion (unless caused by a **CONSTRUCTION DEFECT**);
 - d. Riot and Civil Commotion;
 - e. Smoke (unless resulting from a **CONSTRUCTION DEFECT**);
 - f. Hail;
 - g. Aircraft;
 - h. Falling Objects;
 - i. Vehicles;
 - j. Floods;
 - k. Earthquake;
 - l. Landslide or mudslide originating on property other than the site of the **HOME** or the **COMMON ELEMENTS** or other property developed by the **BUILDER**;
 - m. Mine subsidence or sinkholes;
 - n. Changes in the underground water table not reasonably foreseeable by the **BUILDER**;
 - o. Volcanic eruption; explosion or effusion;
 - p. Wind including:
 - (i). Gale force winds;
 - (ii). Hurricanes;
 - (iii). Tropical storms;
 - (iv). Tornadoes;
 - (v). Rain or water intrusion or moisture within the **HOME** resulting from any wind forces described in p. (i) – (iv) above.
 - q. Insects, animals or vermin;
 - r. Changes to the grading of the ground, or the installation or alteration of improvements such as drain or gutter outlets by anyone other than **US** or **OUR** agents, or subcontractors which results in surface drainage towards the **HOME**, or other improper drainage that permits water to pond or become trapped in localized areas or against the foundation;
 - s. Changes, additions, or alterations made to the **HOME** or the **COMMON ELEMENTS** by anyone

- after the **WARRANTY PERIOD** begins, except those made or authorized by **US**;
- t. Any defect in material or workmanship supplied by anyone other than **US** or **OUR** agents, or subcontractors, including any loss or damage to the **HOME** or the **COMMON ELEMENTS** resulting from material or workmanship supplied by anyone other than **US** or **OUR** agents, or subcontractors;
 - u. Improper maintenance, negligence or improper use of the **HOME** or the **COMMON ELEMENTS** by **YOU** or anyone other than **US** that results in rot, dry rot, moisture, rust, mildew or any other damage;
 - v. Dampness or condensation due to **YOUR** failure to maintain adequate ventilation;
 - w. ~~Damage resulting from the weight and/or performance of any type of waterbed or other furnishings which exceeds the load-bearing design of the **HOME** or the **COMMON ELEMENTS**;~~
 - x. Normal wear and tear or normal deterioration of materials;
 - y. Economic damages due to the **HOME'S** or the **COMMON ELEMENTS'** failure to meet expectations of the **HOMEOWNER** or **HOMEOWNERS ASSOCIATION**.
2. Any loss or damage resulting from the actual, alleged or threatened discharge, dispersal, release or escape of **POLLUTANTS**. **WE** will not cover costs or expenses arising from the uninhabitability of the **HOME** or the **COMMON ELEMENTS** or health risk due to the proximity of **POLLUTANTS**. **WE** will not cover costs, or expenses resulting from the direction of any governmental entity to test, clean-up, remove, treat, contain or monitor **POLLUTANTS**;
 3. Any loss or damage resulting from the effects of electromagnetic fields (EMF's) or radiation;
 4. Any damage to personal property that does not result from a **CONSTRUCTION DEFECT**;
 5. Any **CONSEQUENTIAL OR INCIDENTAL DAMAGES**;
 6. Any **CONSUMER PRODUCTS**;
 7. Any **CONSTRUCTION DEFECT** as to which **YOU** have not taken timely and reasonable steps to protect and minimize damage after **WE** or **OUR** authorized representative have provided **YOU** with authorization to prevent further damage;
 8. Any damage to the extent it is incurred after or as a result of **YOUR** failure to notify **US** in the manner and time required under this **LIMITED WARRANTY**;
 9. Any costs or obligations paid or incurred by **YOU** in violation of **Section VI. C.** below;
 10. Any non-conformity with local building codes, regulations or requirements where the condition does not meet the definition of a **CONSTRUCTION DEFECT**. While **WE** acknowledge **OUR** responsibility to build in accordance with applicable building codes, this **LIMITED WARRANTY** does not cover building code violations in the absence of a **CONSTRUCTION DEFECT**;
 11. Any deviation from plans and specifications where the condition does not meet the definition of a **CONSTRUCTION DEFECT**;
 12. Any claim barred by any limitations period provided by law;
 13. The "fit and finish" of cabinets, mirrors, flooring, interior and exterior walls, countertops, paint finishes and trim which were reported by **YOU** after the first year of the **WARRANTY PERIOD**, except where the "fit and finish" of such items is damaged by any **CONSTRUCTION DEFECT** covered under this **LIMITED WARRANTY**.
- B. **OUR LIMITED WARRANTY** does not cover any **CONSTRUCTION DEFECT** which would not have occurred in the absence of one or more of the excluded events or conditions listed in the Exclusions above, regardless of:
1. The cause of the excluded event or condition;

2. Other causes of the loss or damage; or
3. Whether other causes acted concurrently or in any sequence with the excluded event or condition to produce the loss or damage.

VI. Procedure to Request US To Perform Under This LIMITED WARRANTY

Subsections A through E of this **Section VI** apply in all cases, except where other procedures or provisions apply pursuant to a written contract between **YOU** and **US**.

If **YOU** become aware of a condition that **YOU** believe is a **CONSTRUCTION DEFECT** under this **LIMITED WARRANTY**, **YOU** have the following responsibilities:

A. Notification

YOU must notify **US** in writing as soon as reasonably possible after **YOU** become aware of a condition that **YOU** believe may constitute a **CONSTRUCTION DEFECT**, but in no event may **YOUR** written notice of a **CONSTRUCTION DEFECT** or **YOUR** written request for warranty performance be received by **US** later than thirty (30) days after this **LIMITED WARRANTY** has expired. This extended period for providing notice of a **CONSTRUCTION DEFECT** shall not operate to extend the **WARRANTY PERIOD**.

If the written notice is received by **US** more than thirty (30) days after the expiration of this **LIMITED WARRANTY**, **WE** shall have no obligation to remedy the **CONSTRUCTION DEFECT**. Because of the importance of this written notice requirement, **WE** recommend that notice always be sent by Certified Mail, return receipt requested, in order to establish a record.

B. Cooperate With US

YOU must give **US** and any third parties acting on **OUR** behalf reasonable help in inspecting, investigating, testing (including destructive testing), monitoring, repairing, replacing or otherwise correcting an alleged **CONSTRUCTION DEFECT**. Help includes, but is not limited to, granting reasonable access to the **HOME** or **COMMON ELEMENTS** for the forgoing purposes. If **YOU** fail to cooperate or provide **US** reasonable access to the **HOME** or **COMMON ELEMENTS**, **WE** will have no further obligation under this **LIMITED WARRANTY**.

C. Do Not Make Voluntary Payments

YOU agree not to make any voluntary payments or assume any obligations or incur any expenses for the remedy of a condition **YOU** believe is a **CONSTRUCTION DEFECT** without prior written approval from **US**, or other parties authorized to act on **OUR** behalf. **WE** will not reimburse **YOU** for costs incurred where **YOU** did not obtain prior written approval.

However, **YOU** may incur reasonable expenses in making repairs in an **EMERGENCY CONDITION** without prior written approval, provided the repairs are solely for the protection of the **HOME** or **COMMON ELEMENTS** from further damage or to prevent an unsafe living condition and provided **YOU** notify **US** as soon as is reasonably possible. To obtain reimbursement for repairs made during an **EMERGENCY CONDITION**, **YOU** must provide **US** with an accurate written record of the repair costs.

D. Sign A Release

When **WE** or a third party acting on **OUR** behalf have completed repairing, replacing or paying **YOU** as to any **CONSTRUCTION DEFECTS** and related damage covered by this **LIMITED WARRANTY**, **YOU** may be requested to sign a full release of **OUR** obligation for the **CONSTRUCTION DEFECTS**. The release shall be applicable to the **CONSTRUCTION DEFECTS** and shall not prevent **YOU** from notifying **US** should **YOU** become aware of a subsequent **CONSTRUCTION DEFECT**.

E. If YOU Disagree With US

If **YOU** believe **WE** have not satisfactorily responded to **YOUR** request for warranty performance or satisfactorily worked with **YOU** to resolve any other claim or dispute between **YOU** and **US**, **YOU** should provide written notice to **PWC** requesting Mediation. Upon **PWC**'s receipt of written notice from **YOU**, **PWC** may review and mediate **YOUR** request. **PWC** may communicate with **YOU**, **US**, and any other individuals or entities that **PWC** believes may possess relevant information. If after forty-five (45) days, **PWC** is unable to successfully mediate **YOUR** claim or dispute, or at any earlier time when **PWC** determines that **YOU** and **WE** are at an impasse, **PWC** will notify **YOU** that **YOUR** request remains unresolved and that **YOU** may elect to initiate binding arbitration. ~~Binding arbitration as described in the following section is the sole remedy for the resolution of~~ disputes between **YOU** and **US**.

VII. Binding Arbitration Procedure

Following commencement of the **WARRANTY PERIOD**, any claim, controversy or dispute (hereafter collectively referred to as "dispute") between **YOU** and **US**, or parties acting on **YOUR** or **OUR** behalf, including **PWC**, and any successor, or assign of either **YOU** or **US**, which relates to or arises from this **LIMITED WARRANTY**, or the design or construction of the **HOME** or the **COMMON ELEMENTS**, or the sale of the **HOME** or transfer of title to the **COMMON ELEMENTS**, will be resolved solely by binding arbitration and not through litigation in court before a judge or jury. This agreement to arbitrate is intended to inure to the benefit of, and be enforceable by, **OUR** contractor, subcontractors, agents, vendors, suppliers, design professionals, materialmen, and any of **OUR** direct or indirect subsidiaries or related entities alleged to be responsible for any **CONSTRUCTION DEFECT**. Disputes subject to binding arbitration include, but are not limited to:

- A. Any disagreement that a condition in the **HOME** or the **COMMON ELEMENTS** is a **CONSTRUCTION DEFECT**;
- B. Any disagreement as to the method or scope of repair required to correct a **CONSTRUCTION DEFECT** or whether a **CONSTRUCTION DEFECT** has been corrected in compliance with this **LIMITED WARRANTY**;
- C. Any alleged breach of this **LIMITED WARRANTY**;
- D. Any alleged violation of consumer protection, unfair trade practice, or any other statute;
- E. Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and any other claims arising in equity or from common law;
- F. Any dispute concerning the interpretation of this arbitration provision or the arbitrability of any issue;
- G. Any dispute concerning the timeliness of **OUR** performance and/or **YOUR** notifications under this **LIMITED WARRANTY**;
- H. Any dispute as to the payment or reimbursement of the arbitration filing fee;
- I. Any dispute as to whether this **LIMITED WARRANTY**, or any provision hereof, including, but not limited to, this arbitration clause and any waiver hereunder, is enforceable;
- J. Any other claim arising out of or relating to the sale, design or construction of **YOUR HOME** or the **COMMON ELEMENTS**, including, but not limited to any claim arising out of, relating to or based on any implied warranty or claim for negligence or strict liability not effectively waived by this **LIMITED WARRANTY**.

The arbitration shall be conducted by DeMars and Associates, Ltd. (www.demarsassociates.com) pursuant to its Construction Arbitration Program ("CAP"), or by such other neutral, independent arbitration service that **PWC** shall appoint. If **YOU** object to the arbitration service appointed by **PWC**, **YOU** must so inform **PWC**, in writing, within ten (10) days of **YOUR** receipt of **PWC**'s written notice informing **YOU** of the appointed arbitration

service. PWC will then appoint an alternative neutral arbitration service provider. If YOU object to this alternative provider and if YOU and WE are unable to agree on another alternative, then either party may, pursuant to the applicable provisions of the Federal Arbitration Act (9 U.S.C. § 1, et seq.), apply to a court of competent jurisdiction to designate an arbitration service provider, which designation shall be binding upon the parties. Selection of the arbitrator shall be the responsibility of the appointed arbitration service. The rules and procedures of the arbitration service, including its rules and procedures pertaining to its selection of the arbitrator who will conduct the arbitration, that are in effect at the time the request for arbitration is submitted will be followed unless the parties expressly agree otherwise. PWC will obtain and provide to YOU and US, upon request, the rules and procedures of the arbitration organization appointed to administer the arbitration. The arbitration service finally appointed or designated as aforesaid shall administer the arbitration of any and all disputes required to be joined under the law.

This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by and interpreted under the Federal Arbitration Act now in effect and as it may be hereafter amended (the "FAA") to the exclusion of any inconsistent state law, regulation or judicial decision. The award of the arbitrator shall be final and binding and may be entered as a judgment in any court of competent jurisdiction.

Each party shall bear its own attorney's fees and costs (including expert's costs) for the arbitration. If YOU initiate the arbitration request, the arbitration filing fee and other fees charged by the arbitration service shall be divided and paid equally by YOU and US, unless YOU and WE have otherwise agreed in writing to a different allocation. If WE initiate the request for arbitration, WE shall pay the entire arbitration filing fee as well as all other fees charged by the arbitration service.

As part of any arbitration award, the arbitrator may, at his/her discretion, direct that WE reimburse YOU some or all of the arbitration filing fee and other arbitration fees YOU paid to the arbitration service, but under no circumstances shall YOU be required to reimburse US any portion of the arbitration filing fee and other arbitration fees WE paid.

Arbitration filing fees and other arbitration fees vary among arbitration service providers. Before submitting a Binding Arbitration Request Form, YOU may contact PWC to obtain information on the fees charged by the appointed arbitration service provider. The arbitration service's filing fee and other arbitration fees in effect at the time arbitration is requested shall apply.

The process for initiating arbitration is described below.

Step 1 The Initiating Party Completes A Binding Arbitration Request Form And Mails It To PWC Along With Their Share Of The Arbitration Filing Fee. A Binding Arbitration Request Form is attached to this LIMITED WARRANTY. YOUR Binding Arbitration Request Form must be received by PWC no later than ninety (90) days after the WARRANTY PERIOD expires. Please Note that while YOU have ninety (90) days after the WARRANTY PERIOD expires to file for arbitration, this time period does not extend the WARRANTY PERIOD for CONSTRUCTION DEFECTS. Additionally, no investigation, inspection, testing, repair, replacement, or payment, nor any promise of same by US under this LIMITED WARRANTY, nor any dispute resolution efforts, shall extend the term of this LIMITED WARRANTY or extend or toll any statutes of limitations or any of YOUR rights or remedies.

Step 2 The Arbitration Service Will Arrange For The Arbitration. The arbitrator or arbitration organization will notify YOU and US of the time, date and location of the arbitration hearing. If the dispute involves the allegation of a CONSTRUCTION DEFECT or OUR performance under this LIMITED WARRANTY, most often the hearing will be conducted at the HOME or, if applicable, the location of the COMMON ELEMENTS. Other disputes between YOU and US that are subject to arbitration, but which do not include a CONSTRUCTION DEFECT claim, may be scheduled for hearing at the HOME or another location within the county where the HOME is located. In scheduling the hearing the arbitrator will set a time and date that is reasonably convenient to all the parties.

Step 3 The Arbitration Hearing. The parties at the arbitration hearing will include the arbitrator, YOU, US and/or a third party designated by YOU or US or acting on YOUR or OUR behalf. Any party to the proceeding may be represented at the hearing. All persons who are parties to the arbitration, as well as representatives and witnesses, are entitled to attend hearings.

After evidence is presented by **YOU, US** or **YOUR** or **OUR** representatives, a decision will be rendered by the arbitrator. The decision is final and binding on **YOU** and **US**. The arbitrator may grant any remedy, including statutory remedies, and other relief that the arbitrator deems just and equitable and within the scope of this **LIMITED WARRANTY** or other applicable agreements.

The arbitrator will decide any dispute between the parties, as described above. Where a **CONSTRUCTION DEFECT** is alleged, the arbitrator will determine whether the alleged **CONSTRUCTION DEFECT** exists and whether it is **OUR** responsibility. If the arbitrator finds **US** responsible for a **CONSTRUCTION DEFECT**, **WE** shall be obligated to perform in accordance with **OUR Warranty Obligations** as described in **Section II** above.

In connection with a **CONSTRUCTION DEFECT** dispute, the arbitrator retains jurisdiction and authority to decide any dispute as to the required scope of repair and the cost to repair the **CONSTRUCTION DEFECT**. In deciding such disputes, the arbitrator considers the terms of this **LIMITED WARRANTY**, any third-party evaluations, binding bids for repair work supplied by either of the parties, any estimates of diminished fair market value, and such other information submitted by the parties and deemed relevant by the arbitrator. Except where otherwise directed by the arbitrator's award, the decision to repair, replace, or to make payment to **YOU** in lieu of repair or replacement is at **OUR** or **OUR** authorized representative's sole option. The arbitrator will also render a decision as to any other claims, disputed matters or issues stated in the Binding Arbitration Request Form.

Step 4 **OUR Arbitration Performance Obligations.** If an arbitrator concludes that **WE** are responsible for a **CONSTRUCTION DEFECT**, **WE** will perform in accordance with the arbitrator's decision within sixty (60) days from the date of the award or such greater time as may be allowed by the arbitrator's decision. Delays caused by circumstances beyond **OUR** or **OUR** representative's control shall be excused.

Step 5 **Disputes As To Compliance With The Award.** If there is any dispute as to **OUR** compliance with an arbitrator's award, either party shall so inform **PWC** in writing at its mailing address specified in this **LIMITED WARRANTY**. **PWC** will mediate this dispute and if it cannot be resolved, either party may request a compliance inspection arbitration to decide the question of compliance with the arbitration award. If it is determined that **WE** have not properly performed, **WE** will be obligated to immediately comply. As with the original arbitration award, any such subsequent arbitration rulings shall be enforceable by any court of competent jurisdiction.

VIII. General Conditions

A. Separation of This **LIMITED WARRANTY** From The Contract Of Sale

This **LIMITED WARRANTY** is separate and independent of the contract between **YOU** and **US** for the construction and/or sale of the **HOME** or transfer of the **COMMON ELEMENTS**. Except as otherwise expressly provided herein, the provisions of this **LIMITED WARRANTY** shall in no way be restricted or expanded by anything contained in the construction and/or sales contract or other documents between **YOU** and **US**.

B. Transfer to Subsequent **HOMEOWNERS**

This **LIMITED WARRANTY**, subject to all of its terms and conditions, including, but not limited to, its mandatory binding arbitration provision, will transfer to new owners of the **HOME** for the remainder of the **WARRANTY PERIOD**. **YOU** agree to provide this **LIMITED WARRANTY** to any subsequent purchaser of the **HOME** as a part of the contract of sale of the **HOME**. Please see the form "SUBSEQUENT HOME BUYER ACKNOWLEDGEMENT AND TRANSFER" contained at the end of this document.

C. Transfer of Manufacturer's Warranties

WE assign to **YOU** all the manufacturer's warranties on all appliances, fixtures and items of equipment that **WE** installed in the **HOME**. Should an appliance or item of equipment malfunction **YOU** must follow the procedures set forth in that manufacturer's warranty to correct the problem. **OUR** obligation under

this **LIMITED WARRANTY** is limited to the workmanlike installation, including the requirements and provision contained in the standards set forth in California Civil Code applicable to the **HOME** or the **COMMON ELEMENTS**, of such appliances and equipment. **WE** have no obligation for appliances and equipment defined as **CONSUMER PRODUCTS**.

D. Recovery Rights

If **WE** or a third party designated by **US** or acting on **OUR** behalf repairs, replaces or pays the cost to repair or replace **CONSTRUCTION DEFECT**, or other related damage to the **HOME** or the **COMMON ELEMENTS** covered by this **LIMITED WARRANTY**, or if **WE** elect to pay the diminished market value of the **HOME** in lieu of repair or replacement of a **CONSTRUCTION DEFECT**, **WE** are then entitled, to the extent of **OUR** cost or payment, to take over **YOUR** related rights of recovery from other people and entities, including but not limited to, other warranties and insurance. **YOU** have an obligation not to make it harder for **US** to enforce these rights. **YOU** agree to sign any papers, deliver them to **US**, and do anything else that is necessary to help **US** exercise **OUR** rights.

E. General Provisions

1. If any provision of this **LIMITED WARRANTY** is determined to be unenforceable, such a determination will not affect the remaining provisions. If this **LIMITED WARRANTY** or any provision herein is determined to be unenforceable as to a **HOMEOWNERS ASSOCIATION** or a specific **HOMEOWNER**, such a determination will not affect the enforceability of this **LIMITED WARRANTY** or such provision as to any other **HOMEOWNERS ASSOCIATION** or any other **HOMEOWNER**. The issue of enforceability, as well as all other issues, will be determined by Binding Arbitration as provided for in this **LIMITED WARRANTY**.
2. This **LIMITED WARRANTY** and the binding arbitration process are binding on **YOU** and **US**. It is also binding on **YOUR** and **OUR** heirs, executors, administrators, successors, and assigns.
3. As may be appropriate, the use of the plural in this **LIMITED WARRANTY** includes the singular, and the use of one gender includes all genders.

IX. Definitions

BUILDER means the individual, partnership, corporation or other entity which participates in the Warranty Program administered by the Professional Warranty Service Corporation and provides **YOU** with this **LIMITED WARRANTY**. Throughout this document the **BUILDER** is also referred to as "**WE**", "**US**" and "**OUR**".

COMMON ELEMENTS means the property as specified in the recorded Covenants, Conditions and Restrictions as common area and any other property as to which the **HOMEOWNERS ASSOCIATION** has standing under the law to make a claim. This may include, but is not limited to, streets, slopes, the structure or components of enclosure or other parts of the **HOME**, corridors, lobbies, vertical transportation elements, rooms, balconies, clubhouses or other spaces that are for the common use of the residents of the development in which the **HOME** is located. **SYSTEMS** serving two or more **HOMES**, and the outbuildings that contain parts of such **SYSTEMS** are also included in this definition.

CONSEQUENTIAL OR INCIDENTAL DAMAGES means any loss or injury **other than**:

- A. **OUR** cost to correct a **CONSTRUCTION DEFECT** including the correction of those surfaces, finishes and coverings damaged by the **CONSTRUCTION DEFECT**;
- B. **OUR** cost to repair or replace, at market value, furniture, carpet or personal property damaged by the **CONSTRUCTION DEFECT**;
- C. **OUR** cost to repair damage to the **HOME** which occurs in the course of **OUR** repair or replacement of a **CONSTRUCTION DEFECT**;
- D. The reasonable cost of the **HOMEOWNER'S** alternative shelter, storage expenses and lost business income (if the **HOME** was used as a principal place of business licensed to be operated from the **HOME**) when the **HOME** is temporarily uninhabitable due to a **CONSTRUCTION DEFECT** and while the **HOME** is rendered uninhabitable by the work

necessary to repair a **CONSTRUCTION DEFECT**.

Time **YOU** take off from work as a result of a **CONSTRUCTION DEFECT** or the repair/replacement of a **CONSTRUCTION DEFECT**, are among those damages considered "**CONSEQUENTIAL OR INCIDENTAL DAMAGE**" and are excluded under this **LIMITED WARRANTY**. Diminished fair market value of the **HOME** is also among those damages considered "**CONSEQUENTIAL OR INCIDENTAL DAMAGE**" and is excluded under this **LIMITED WARRANTY** notwithstanding that **WE** reserve the right to elect to pay **YOU** diminished fair market value in lieu of **OUR** repair, replacement or payment for the cost to repair or replace a **CONSTRUCTION DEFECT**.

CONSTRUCTION DEFECT(S) means a condition in the materials or workmanship used in constructing the **HOME** and/or the **COMMON ELEMENTS** that:

- materially affects the structural integrity of the **HOME** or the **COMMON ELEMENTS**; or
- has an obvious and material negative impact on the appearance of the **HOME** or the **COMMON ELEMENTS**; or
- jeopardizes the life or safety of the occupants of the **HOME** or the users of the **COMMON ELEMENTS**; or
- results in the inability of the **HOME** or the applicable **COMMON ELEMENTS** to provide the functions that can reasonably be expected in such a **HOME** or **COMMON ELEMENT**.

CONSUMER PRODUCT means any piece of equipment, appliance or other item that is a **CONSUMER PRODUCT** for purposes of the Magnuson-Moss Warranty Act (15 U.S.C. § 2301, et seq.) installed or included in the **HOME**. Examples of Consumer Products include, but are not limited to, dishwasher, garbage disposal, gas or electric cook-top, range, range hood, refrigerator or refrigerator/freezer combination, gas oven, electric oven, microwave oven, trash compactor, automatic garage door opener, clothes washer and dryer, hot water heater, solar water heater, solar water heating panels, furnace, boiler, heat pump, air conditioning unit, humidifier, thermostat, and security alarm system.

EMERGENCY CONDITION means an event or situation that creates the imminent threat of damage to the **HOME** or **COMMON ELEMENTS**, or results in an unsafe living condition due to a **CONSTRUCTION DEFECT** that **YOU** (or as applicable, the **HOMEOWNERS ASSOCIATION**) become aware of at a point in time other than **OUR** normal business hours and **YOU** were unable to obtain **OUR** or **OUR** authorized representative's prior written approval to initiate repairs to stabilize the condition or prevent further damage.

HOME means a single family residence either attached or detached covered by this **LIMITED WARRANTY** and the land on which it sits, or a condominium or cooperative unit in a multi-unit residential structure/building covered by this **LIMITED WARRANTY**, and the land on which it sits, except to the extent such unit, structure/building or land is part of the **COMMON ELEMENTS**.

HOME BUILDER'S LIMITED WARRANTY means only this express warranty document provided to **YOU** by **US**.

HOMEOWNER means the first person(s) to whom a **HOME** (or a unit in a multi-unit residential structure/building) is sold, or for whom such **HOME** is constructed, for occupancy by such person or such person's family, and such person's(s') successors in title to the **HOME**, or mortgagees in possession and any representative of such person(s) who has standing to make a claim on that person(s) behalf, including any class representative or **HOMEOWNERS ASSOCIATION** making a claim in a representative capacity.

HOMEOWNERS ASSOCIATION means a profit or nonprofit corporation, unincorporated association, organization, partnership, assessment district, limited liability company, limited liability partnership or other entity of any kind that owns, manages, maintains, repairs, administers, or is otherwise responsible for and has standing to make a claim as to any part of the **COMMON ELEMENTS**.

POLLUTANTS means all solid, liquid, or gaseous irritants or contaminants. The term includes, but is not limited to, petroleum products, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, radon gas, and waste materials, including materials to be recycled.

PWC means Professional Warranty Service Corporation which administers the warranty program in which **WE** participate. As such, **PWC** assumes no other liabilities in connection with this **LIMITED WARRANTY**. The **PWC** mailing address is: **Professional Warranty Service Corporation**

P.O. Box 800 Annandale, VA 22003-0800

SYSTEMS means the following:

- (a) Plumbing system - gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; and water, gas and sewer services piping and their extensions to the tie-in of a public utility connection or on-site well and sewage disposal system.
- (b) Electrical system - all wiring, electrical boxes, switches, outlets, and connections up to the public utility connection.
- (c) ~~Heating, Cooling, and Ventilation system - all duct work, steam, water and refrigerant lines, and registers, connectors, radiation elements and dampers.~~

WARRANTY PERIOD shall commence on the date the title to the **HOME** is transferred to the first **HOMEOWNER**. Notwithstanding anything to the contrary set forth in this **LIMITED WARRANTY**, the **WARRANTY PERIOD** for the **COMMON ELEMENTS** of an individual structure/building commences on the date the title for the first **HOME** in the structure/building is transferred to the first **HOMEOWNER** or, as concerns clubhouses or outbuildings or other **COMMON ELEMENTS** not part of the **HOME**, the earlier of the date of substantial completion or the date title to these structures is transferred to the **HOMEOWNERS ASSOCIATION**. The dates the **WARRANTY PERIOD** begins and ends are indicated on the Limited Warranty Validation Form which is attached to and made part of this **LIMITED WARRANTY**.

WE, US, OUR means the **BUILDER**.

YOU, YOUR means the **HOMEOWNER** and the **HOMEOWNERS ASSOCIATION**.

BINDING ARBITRATION REQUEST FORM

Prior to requesting binding arbitration under the terms of the HOME BUILDER'S LIMITED WARRANTY, the initiating party should have sent the other party a clear and specific written request outlining the claim(s) or dispute(s) that are being submitted for decision through binding arbitration. If you have taken this step and believe the other party has not satisfactorily responded in accordance with the HOME BUILDER'S LIMITED WARRANTY, fill out this form and send it to PWC along with the arbitration filing fee. Be sure to attach a copy of all pertinent correspondence between you and the other party relative to the issue.

The information you need to fill out this form can be found on the Limited Warranty Validation Form. However, if you do not know the answers to any questions, write "Don't Know." Please do not leave any item blank.

Homeowner name(s): _____

Address: _____

_____ CITY STATE ZIP

Home Phone: (____) _____

Business Phone: (____) _____

LIMITED WARRANTY #: _____

Date Warranty Period begins: _____

Builder's Name: _____

Address: _____

Business Phone: (____) _____

Describe the dispute that you wish to submit to binding arbitration under the terms of the HOME BUILDER'S LIMITED WARRANTY. If the dispute is relative to a construction defect please include information on when the construction defect(s) first occurred or when you first noticed the construction defect. (Attach additional sheets, if necessary).

I/we are hereby requesting PWC to initiate a binding arbitration to resolve the dispute described herein above.

Signature Date Signature Date

INSTRUCTIONS: Photo-copy this form and complete the fields.
Obtain the required arbitration filing fee by contacting PWC at 1-800/850-2799.
Send this Binding Arbitration Request Form and the arbitration filing fee to:

**PROFESSIONAL WARRANTY SERVICE CORPORATION
P. O. BOX 800
ANNANDALE, VIRGINIA 22003-0800**

SUBSEQUENT HOME BUYER ACKNOWLEDGMENT AND TRANSFER

Any coverage remaining under the **HOME BUILDER'S LIMITED WARRANTY** applicable to the home specified on the Limited Warranty Validation Form is transferred to the subsequent homeowner.

The undersigned home buyer(s) hereby acknowledge and agree:

I/we acknowledge that I/we have reviewed, understand and agree to all the terms of the HOME BUILDER'S LIMITED WARRANTY document (PWC Form No. 117).

I/we understand and acknowledge that Professional Warranty Service Corporation ("PWC") is not the warrantor of the HOME BUILDER'S LIMITED WARRANTY.

I/we understand that I/we am/are responsible for the maintenance of the home including maintenance of the grade of the land surrounding the home, and that the Builder shall not be responsible for any defect or damage to the home which is the result of my/our failure to maintain the home.

I/we acknowledge and agree to the Binding Arbitration Procedure contained in the HOME BUILDER'S LIMITED WARRANTY.

Signature(s) of Subsequent Home Buyer(s): _____ Date: _____

_____ Date: _____

Print above name(s): _____

Re-issuance of the Limited Warranty Validation Form with the name(s) of the new Home Buyer(s) is not necessary for you to receive the coverage remaining under the **HOME BUILDER'S LIMITED WARRANTY**. Upon receipt of this signed form, PWC will update its records to reflect the name(s) of the new homeowner(s). If you want PWC to issue another Limited Warranty Validation Form with your name(s) on the form, please check the box below and send a check in the amount of \$20.00 made payable to "PWC" with your submission of this form.

YES, re-issue the Limited Warranty Validation Form in the above name(s) (check box) Initial _____

Address of Home: _____

Limited Warranty No.: _____

INSTRUCTIONS: Photo-copy this form. Provide information requested, sign, fill in Limited Warranty # in the space provided (this number is provided on the Limited Warranty Validation Form), and provide a telephone number where you can be reached (_____) _____. If you want the Limited Warranty Validation Form reissued in your name, enclose your check to PWC in the amount of \$20.00 (check box above and initial). To reach PWC by phone, call: 1-800/850-2799.

Mail this form and a photocopy of applicable settlement/closing documents indicating transfer of title, to:

PROFESSIONAL WARRANTY SERVICE CORPORATION P.O. BOX 800 ANNANDALE, VA 22003-0800

0904001DH

1035220.1

EXHIBIT J

DISCLAIMER AND WAIVER OF WARRANTIES AND OTHER RIGHTS

DECLARANT SHALL CAUSE TO BE ISSUED AND DELIVERED TO THE ASSOCIATION AND TO EACH ORIGINAL PURCHASER WHO PURCHASES A LOT IN THE COMMUNITY A WRITTEN HOME BUILDER'S LIMITED WARRANTY ("**LIMITED WARRANTY**"). THE ASSOCIATION AND OWNERS UNDERSTAND AND AGREE THAT THE LIMITED WARRANTY TO BE ISSUED TO THE ASSOCIATION AND OWNERS IS THE ONLY WARRANTY, EXPRESS, IMPLIED OR STATUTORY, MADE BY DECLARANT WITH REGARD TO THE LOTS AND COMMON AREA IN THE COMMUNITY. DECLARANT MAKES NO OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTIES OR REPRESENTATIONS REGARDING EITHER LATENT OR PATENT DEFECTS IN THE LOTS OR COMMON AREA, OR ANY COMPONENTS THEREOF, OR FIXTURES OR PERSONAL PROPERTY INSTALLED THEREIN, OR AS TO THE MERCHANTABILITY, FITNESS, HABITABILITY, OR QUALITY THEREOF, AND DISCLAIMS ANY SUCH WARRANTIES AND REPRESENTATIONS, TO THE FULLEST EXTENT ALLOWED BY LAW.

SPECIFICALLY, AND NOT BY WAY OF LIMITATION, DECLARANT HAS NOT MADE ANY REPRESENTATION REGARDING VIEWS, THE FUTURE USE, APPEARANCE OR HEIGHT OF SURROUNDING OR ADJOINING PROPERTY, SELLING PRICE OF OTHER HOMES, INVESTMENT OR TAX ADVANTAGE OF HOME OWNERSHIP, OR DESIRABILITY OF ANY PARTICULAR LOCATION. EXCEPT AS MAY BE SET FORTH IN A SEPARATE WRITTEN DISCLOSURE DELIVERED BY DECLARANT TO THE INITIAL OWNER OF A LOT, DECLARANT MAKES NO WARRANTY OR REPRESENTATION AS TO THE FUTURE USES ON ADJOINING PROPERTIES OR PROPERTY IN THE GENERAL VICINITY OF THE COMMUNITY, NOR AS TO THE PRESENCE OR NON-PRESENCE OF RADON, METHANE OR OTHER NATURALLY OCCURRING HAZARDOUS ENVIRONMENTAL CONDITIONS, OR TO THE EFFECT OF ANY SUCH CONDITION ON THE COMMON AREA, LOTS, THE ASSOCIATION OR THE OWNERS.

NOTWITHSTANDING THE FOREGOING, DECLARANT'S WARRANTY SHALL IN NO EVENT EXTEND TO ANY CONSUMER PRODUCT, APPLIANCES, AIR CONDITIONING UNITS, FURNACES, WATER HEATERS AND OTHER PRODUCTS INCLUDED IN THE COMMON AREA OR THE LOTS THAT ARE CONSIDERED "CONSUMER PRODUCTS" AS DEFINED BY THE FEDERAL TRADE COMMISSION FOR THE PURPOSES OF THE MAGNUSON MOSS ACT (15 U.S.C. 2301, *ET SEQ.*) THAT MAY BE INCLUDED IN ANY TRANSACTION WITH THE ASSOCIATION OR ANY OWNER. THE MANUFACTURERS OF

SOME PRODUCTS USED IN THE COMMUNITY MAY PROVIDE A MANUFACTURER'S WARRANTY. DECLARANT HAS NO OBLIGATION OR RESPONSIBILITY FOR THE MANUFACTURER'S PERFORMANCE, AND DECLARANT DOES NOT WARRANT ANY OF THESE ITEMS FOR ANY USE, FITNESS FOR USE, WORKMANSHIP, QUALITY OR ANY OTHER PURPOSE.

THE ASSOCIATION AND OWNERS HAVE CONDUCTED THEIR OWN RESPECTIVE INVESTIGATIONS WITH RESPECT TO THESE AND ALL OTHER MATTERS. TO THE FULLEST EXTENT ALLOWED BY LAW, THE ASSOCIATION AND OWNERS WAIVE ALL IMPLIED WARRANTIES RELATING TO THE LOTS OR COMMON AREA IN THE COMMUNITY, OR ANY COMPONENTS THEREOF, OR FIXTURES OR PERSONAL PROPERTY INSTALLED THEREIN, INCLUDING ALL IMPLIED WARRANTIES REGARDING EITHER LATENT OR PATENT DEFECTS IN THE LOTS OR COMMON AREA IN THE COMMUNITY, OR AS TO THE MERCHANTABILITY, FITNESS, HABITABILITY, OR QUALITY THEREOF. THE ASSOCIATION AND OWNERS ALSO WAIVE THE RIGHT TO SEEK DAMAGES OR OTHER LEGAL OR EQUITABLE REMEDIES AGAINST DECLARANT UNDER ANY OTHER COMMON LAW OR STATUTORY THEORY OF LIABILITY, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE AND STRICT LIABILITY. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, CERTAIN WAIVERS OF RIGHTS MAY BE UNENFORCEABLE.

NO SALESPERSON, EMPLOYEE OR AGENT OF DECLARANT HAS AUTHORITY TO MODIFY THE TERMS OF THIS EXHIBIT. THIS EXHIBIT SUPERSEDES ANY PROMISES, AGREEMENTS, OR OTHER REPRESENTATIONS MADE BY ANY SALESPERSON, EMPLOYEE OR AGENT OF DECLARANT, WHETHER ORAL OR WRITTEN, WITH RESPECT TO THE MATTERS SET FORTH IN THIS EXHIBIT, AND THE ASSOCIATION AND OWNERS HAVE NOT RELIED AND SHALL NOT RELY ON ANY SUCH PROMISES, AGREEMENTS, OR OTHER REPRESENTATIONS WITH RESPECT TO THE MATTERS SET FORTH IN THIS EXHIBIT.

NOTHING IN THIS DISCLAIMER AND WAIVER OF WARRANTIES AND OTHER RIGHTS EXHIBIT OR THE LIMITED WARRANTY DIMINISHES ANY RIGHTS OR OBLIGATIONS DECLARANT PARTIES, THE OWNERS OR THE ASSOCIATION MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTIONS 895 THROUGH 945.5.

EXHIBIT K

LEGAL DESCRIPTION OF ACCESS PARCELS

The Access Parcels consist of all of that certain real property located in Rancho Little Temecula, State of California, more particularly described as follows:

Being portions of Lot 75, of Tract No. 23066-4, as filed in Book 261, Page(s) 29 through 37, inclusive, of Map Books, and portions of Parcel "B" of Notice of Lot Line Adjustment No. 4001, recorded July 16, 1998 as Instrument No. 294880 of Official Records, Records of Riverside County, State of California, being portions of Parcels G and H in that certain document recorded January 4, 2013 as Instrument No. 2013-0006132 of Official Records, Records of Riverside County, State of California, lying within Rancho Little Temecula, more particularly described as follows:

BEING Lot 75 of Tract 23066-4, as per map recorded in Book 261, Pages 29 through 37, inclusive, of Maps, and Parcel B of Notice of Lot Line Adjustment No. 4001, recorded on July 16, 1998 as Instrument No. 294880 of Official Records, being Lot 76 of Tract No. 23066-4, in the County of Riverside, State of California, as per map recorded in Book 261, Pages 29 through 37, inclusive, of Maps, Records of Riverside County, California.

EXCEPTING THEREFROM the following described parcel of land:

BEGINNING at the southeast corner of Lot 24 of said Tract No. 23066-4;

thence along the east line of said Lot 24 North 09°00'18" West, 100.42 feet to the southerly Right of Way line of Anasazi Drive of said Tract No. 23066-4;

thence along said southerly Right of Way line North 80°59'42" East, 5.00 feet;

thence leaving said southerly Right of Way line South 09°00'18" East, 97.75 feet to the southeasterly line of said Lot 76;

thence along said southeasterly line South 53°06'24" West, 5.66 feet to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM that certain parcel of land as described in the Offer of Dedication – Road Purposes to the City of Temecula, recorded August 6, 2014 as Instrument No. 2014-0297546 of Official Records, Records of Riverside County, California.