

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 2.15
(ID # 22437)

MEETING DATE:
Tuesday, August 01, 2023

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Approval of Final Tract Map 32818 a Schedule "A" Subdivision in the Winchester area. District
3. [Applicant Fees 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Improvement Agreements for Final Tract Map 32818 as approved by County Counsel;
2. Approve the Final Map; and
3. Authorize the Chair of the Board to sign the Improvement Agreements and Final Tract Map 32818.

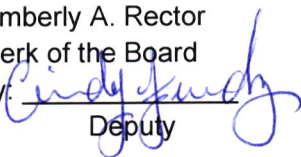
ACTION:Consent


Mark Lancaster, Director of Transportation 7/21/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Gutierrez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Perez, Washington, and Gutierrez
Nays: None
Absent: None
Date: August 1, 2023
xc: Trans.

Kimberly A. Rector
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Applicant Fees 100%			Budget Adjustment:	N/A
			For Fiscal Year:	N/A

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Tentative Map of Tract Map 32818 was approved by the Board of Supervisors on March 28, 2006, as Agenda Item 1.4. Final Tract Map 32818 is a 24.85-acre subdivision creating 2 condominium lots in the Winchester area. This Final Map complies in all respects with the provisions of the Subdivision Map Act and applicable local ordinances. All necessary conditions of approval have been satisfied and departmental clearances have been obtained to allow for the recordation of the Final Map. The Transportation Department recommends approval of this final tract map.

FPG Tricon Woods Property, LLC desires to enter into Improvement Agreements to guarantee the construction of the required improvements and has submitted Improvement Agreements which have been approved by County Counsel. All costs for improvements will be the responsibility of the developer.

TR 32818 \$18,057 for the completion of the survey monumentation.

Additional Fiscal Information:

All fees paid by the applicant. There is no general fund obligation.

ATTACHMENTS:

- TR 32818 Vicinity Map
- TR 32818 Improvement Agreement
- TR 32818 Mylars

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA



Jason Farin, Principal Management Analyst 7/26/2023



Kelly Moran, Deputy County Counsel 7/24/2023

**AGREEMENT
FOR THE PLACEMENT OF SURVEY MONUMENTS**

This agreement, made and entered into by and between the County of Riverside, State of California, hereinafter called County, and FPG Tricon Woods Property LLC, hereinafter called Contractor.

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by County of the final map of that certain land division known as **Tract 32818**, hereby agrees, at Contractor's own cost and expense, to furnish all labor, equipment and materials necessary to set, within **24** months from the date this agreement is executed, in a good and workmanlike manner, all survey monuments and tie points and to furnish to the County Surveyor tie notes for said tract in accordance with the standards set forth in Riverside County Ordinance No. 461 and Section 8771 et seq. of the Business and Professions Code of the State of California. Contractor further agrees to pay, within 30 days of presentation to contractor of the final billing of any surveyor or engineer for work performed by him as provided for in Article 9 of Chapter 4, Division 2 of Title 7 of the Government Code of the State of California (commencing with Section 66495). Contractor further agrees that if payment to the surveyor or engineer is not made within 30 days, the surveyor or engineer notifies County that he has not been paid for setting the final monuments, and the Board of Supervisors, pursuant to Section 66497 of the Government Code, after providing Contractor with an opportunity to present evidence as to whether or not the surveyor or engineer has been paid, orders that payment be made by County to the engineer or surveyor, Contractor will, upon demand, and without proof of loss by County, reimburse County for any funds so expended. Notwithstanding any other provisions herein, the determination of County as to whether the surveyor or engineer has been paid shall be conclusive on Contractor, its surety, and all parties who may have an interest in the agreement or any portion thereof.

All of the above required work shall be done under the inspection of, and to the satisfaction of, the County Surveyor, and shall not be deemed complete until approved and accepted as complete by the County. The estimated cost of said work and improvements is the sum of **Eighteen Thousand Fifty-Seven and no/100 Dollars (\$18,057.00)**.

SECOND: Contractor agrees to pay to County the actual cost of such inspections of the work and improvements as may be required by the County Surveyor. Contractor further agrees that, if suit is brought upon this agreement or any bond guaranteeing the completion of the monuments, all costs and reasonable expenses and fees incurred by County in successfully enforcing such obligations shall be paid by Contractor, including reasonable attorney's fees, and that, upon entry of judgment, all such costs, expenses and fees shall be taxed as costs and included in any judgment rendered.

THIRD: County shall not, nor shall any officer or employee of County, be liable or responsible for any accident, loss or damage happening or occurring to the works specified in this agreement prior to the completion and acceptance thereof, nor shall County or any officer or employee thereof, be liable for any persons or property injured by reason of the nature of the work, or by reason of the acts or omissions of Contractor, its agents or employees, in the performance of the work, and all or said liabilities are assumed by Contractor. Contractor agrees to protect, defend, and hold harmless County and the officers and employees thereof from all loss, liability or claim because of, or arising out of the acts or omissions of Contractor, its agents and employees, in the performance of this agreement or arising out of the use of any patent or patented article in the performance of this agreement.

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FOURTH: The Contractor hereby grants to County, the Surety upon any bond, and to the agents, employees and contractors of either or them, the irrevocable permission to enter upon the lands of the subject land division for the purpose of completing the monumentation. This permission shall terminate in the event that Contractor or the Surety has completed work within the time specified or any extension thereof granted by the County. It is further agreed that Contractor shall have control of the ground reserved for the installation of said work, and the streets in which they are to be placed, as is necessary to allow Contractor to carry out this agreement.

FIFTH: Contractor agrees to file with County prior to the date this contract is executed, an acceptable and sufficient improvement security in an amount not less than the estimated cost of the work, as above specified, for the faithful performance of the terms and conditions of this agreement, and for the payment of the amount of the improvement security to the County for the benefit of any surveyor or engineer who has not been paid by the Contractor, as provided for by Section 66495 et seq. of the Government Code of the State of California. Contractor agrees to renew each and every said bond or bonds with good and sufficient sureties or increase the amount of said bonds, or both, within ten (10) days after being notified by the Director of Transportation that the sureties or amounts are insufficient. Notwithstanding any other provisions herein, if Contractor fails to take such action as is necessary to comply with said notice, Contractor shall be in default of this agreement unless all required improvements are completed within ninety (90) days of the date on which the Director of Transportation notified Contractor of the insufficiency of the security or the amount of the bonds or both.

SIXTH: If contractor neglects, refuses, or fails to prosecute the work as to insure its completion within the time specifies, or within such extensions of time which have been granted by County, or if Contractor violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, Contractor shall be in default of this agreement. County shall have the power, on recommendation of the Director of Transportation, to terminate all rights of Contractor in such agreement, but said termination shall not affect or terminate any of the rights of County as against Contractor or its Surety then existing or which thereafter accrue because of such default. The determination of the County Surveyor of the question as to whether any of the terms of the agreement or specifications have been violated, or have not been performed satisfactorily, shall be conclusive upon the Contractor, its Surety, and any and all parties who may have any interest in the agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all other rights and remedies available to County under law. The failure of the Contractor to commence construction shall not relieve the Contractor or surety from completion of the improvements required by this agreement.

SEVENTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds securing this agreement, that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this agreement, extensions of time may be granted, from time to time, by County, either at its own option, or upon request of Contractor, and such extensions shall in no way affect the validity of this agreement or release the surety or sureties on such bonds. Contractor further agrees to maintain the aforesaid bond or bonds in full force and effect during the terms of this agreement, including any extensions of time as may be granted therein.

EIGHTH: It is understood and agreed by the parties hereto that if any part, term or provision of this agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain that particular part, term or provision held to be invalid.

NINTH: Any notice or notices required or permitted to be given pursuant to this agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

County

Contractor

Construction Engineer
Riverside County Transportation Dept.
4080 Lemon Street, 8th Floor
Riverside, CA 92501

FPG Tricon Woods Property LLC
27271 Las Ramblas, Suite 100
Mission Viejo, CA 92691

IN WITNESS WHEREOF, Contractor has affixed his name, address and seal.

FPG Tricon Woods Property LLC, a Delaware limited liability company

By: FPG Tricon Woods Holdings LLC, a Delaware limited liability company
Its Sole Member

By: FPG Investors B4, LLC, a California limited liability company
Its Manager

By  _____

Print Name: Bing Chen _____

Title: Managing Director _____

COUNTY OF RIVERSIDE signature page to follow on page 4.

SIGNATURES OF CONTRACTOR MUST BE ACKNOWLEDGED BY NOTARY
AND EXECUTED IN TRIPLICATE

ACKNOWLEDGMENT

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.

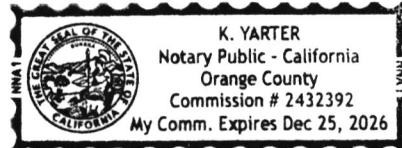
State of California
County of Orange)

On June 5 2023 before me, K. Yarter, Notary Public
(insert name and title of the officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

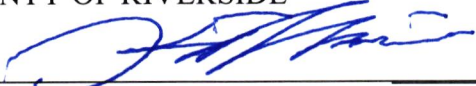
WITNESS my hand and official seal.



Signature  (Seal)

COUNTY OF RIVERSIDE SIGNATURE PAGE

COUNTY OF RIVERSIDE

By 

KEVIN JEFFRIES, CHAIR
Board of Supervisors

ATTEST:

KIMBERLY RECTOR,
Clerk of the Board

By 

Deputy

APPROVED AS TO FORM

County Counsel

By 

Revised 09/01/2020

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TRACT NO. 32818

BEING A SUBDIVISION OF LOT 2 OF NOTICE OF LOT LINE ADJUSTMENT NO. 05482 RECORDED AUGUST 19, 2014 AS INSTRUMENT NO. 2014-0313562 AND PERFECTED BY DEED RECORDED AUGUST 12, 2022 AS DOCUMENT NO. 2022-0356207, BOTH OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, LYING WITHIN SECTION 32, TOWNSHIP 5 SOUTH, RANGE 2 WEST, S.B.M.



AUGUST 2021

FOR CONDOMINIUM PURPOSES

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2023 AT _____, IN BOOK _____ OF MAPS, AT PAGES _____, AT THE REQUEST OF THE CLERK OF THE BOARD.
NO. _____
FEE _____
PETER ALDANA, ASSESSOR-COUNTY CLERK- RECORDER
BY: _____, DEPUTY

SUBDIVISION GUARANTEE:
FIRST AMERICAN TITLE COMPANY

OWNERS' STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF THE LAND INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID LAND; THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE. THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: LOTS "A" THROUGH "E", INCLUSIVE. THE DEDICATION IS FOR STREET AND PUBLIC UTILITY PURPOSES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: THE PRIVATE ROAD EASEMENTS SHOWN HEREON. THE DEDICATION IS FOR PUBLIC UTILITY PURPOSES TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR EMERGENCY VEHICLES WITHIN THE "PRIVATE ROAD EASEMENT".

AS A CONDITION OF DEDICATION OF LOT "E", BLALOCK PLACE, THE OWNER OF LOT 1 ABUTTING THIS HIGHWAY AND DURING SUCH TIME WILL HAVE NO RIGHTS OF ACCESS EXCEPT THE GENERAL EASEMENT OF TRAVEL. ANY CHANGE OF ALIGNMENT OR WIDTH THAT RESULTS IN THE VACATION THEREOF SHALL TERMINATE THIS CONDITION OF ACCESS RIGHTS AS TO THE PART VACATED.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: ABUTTERS' RIGHTS OF ACCESS ALONG WESTERN HILL DRIVE, PRAIRIE LOOP ROAD AND DOMENIGNONI PARKWAY. THE OWNERS OF LOT 1 AND 2, ABUTTING THESE HIGHWAYS AND DURING SUCH TIME WILL HAVE NO RIGHTS OF ACCESS EXCEPT THE GENERAL EASEMENT OF TRAVEL. ANY CHANGE OF ALIGNMENT OR WIDTH THAT RESULTS IN THE VACATION THEREOF SHALL TERMINATE THIS DEDICATION AS TO THE PART VACATED.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: FLOOD CONTROL EASEMENT LYING WITHIN LOT 1 AS SHOWN HEREON. THE DEDICATION IS FOR CONSTRUCTION AND MAINTENANCE OF FLOOD CONTROL FACILITIES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: STORM DRAIN EASEMENT LYING WITHIN LOT 1 AS SHOWN HEREON. THE DEDICATION IS FOR CONSTRUCTION AND MAINTENANCE OF FLOOD CONTROL FACILITIES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: ACCESS EASEMENT LYING WITHIN LOT 1 AS SHOWN HEREON. THE DEDICATION IS FOR INGRESS AND EGRESS TO AND FROM FLOOD CONTROL AND STORM DRAIN EASEMENTS, FOR CONSTRUCTION AND MAINTENANCE OF FLOOD CONTROL FACILITIES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: DRAINAGE EASEMENT LYING WITHIN LOT 1 AS SHOWN HEREON. THE DEDICATION IS FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE FACILITIES.

THE REAL PROPERTY IS DEDICATED AS AN EASEMENT TO THE VALLEY-WIDE RECREATION AND PARKS DISTRICT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FOR PUBLIC PURPOSES: LANDSCAPE EASEMENTS LYING WITHIN LOT 1. THE DEDICATION IS FOR OPEN SPACE, LANDSCAPE AND BASIN PURPOSES.

THE REAL PROPERTY IS DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES TO VALLEY-WIDE RECREATION AND PARK DISTRICT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA: LYING WITHIN LOT 2 AS SHOWN HEREON. THE DEDICATION IS FOR OPEN SPACE AND LANDSCAPE MAINTENANCE PURPOSES.

WE HEREBY RETAIN THE "PRIVATE ROAD EASEMENT," AS SHOWN HEREON FOR PRIVATE USE, FOR THE SOLE BENEFIT OF OURSELVES, OUR SUCCESSORS, ASSIGNEES, AND LOT OWNERS WITHIN THIS TRACT MAP.

WE HEREBY RETAIN THE "SEWER, WATER AND RECYCLED WATER EASEMENT," AS SHOWN HEREON FOR PRIVATE USE, FOR THE SOLE BENEFIT OF OURSELVES, OUR SUCCESSORS, ASSIGNEES, AND LOT OWNERS WITHIN THIS TRACT MAP.

WE HEREBY RETAIN THE "SEWER EASEMENT," AS SHOWN HEREON FOR PRIVATE USE, FOR THE SOLE BENEFIT OF OURSELVES, OUR SUCCESSORS, ASSIGNEES, AND LOT OWNERS WITHIN THIS TRACT MAP.

OWNER: FPG TRICON WOODS PROPERTY LLC,
A DELAWARE LIMITED LIABILITY COMPANY

BY: FPG TRICON WOODS HOLDINGS LLC,
A DELAWARE LIMITED LIABILITY COMPANY
ITS SOLE MEMBER

BY: FPG INVESTORS BA, LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY
ITS MANAGER

BY:
BRYAN BERGERON
VICE PRESIDENT, FORWARD PLANNING

NOTARY ACKNOWLEDGMENT

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 Orange

ON June 9 2023 BEFORE ME, K. Yarter A NOTARY PUBLIC,
PERSONALLY Bryan Bergeron

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/IT/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 UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL



PRINT NAME K. Yarter

SIGNATURE K. Yarter

NOTARY PUBLIC, STATE OF CA COMMISSION NO.: 242392

MY COMMISSION EXPIRES: December 26, 2026

COUNTY OF PRINCIPAL PLACE OF BUSINESS Orange

SIGNATURE OMISSIONS

PURSUANT TO SECTION 66436 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING OWNERS OF EASEMENTS AND/OR OTHER INTERESTS HAVE BEEN OMITTED:

DRH ENERGY, INC., A COLORADO CORPORATION OWNER OF ANY AND ALL OIL, GAS, MINERAL, GEOTHERMAL AND OTHER HYDROCARBON SUBSTANCES, WATER RIGHTS AND CLAIMS TO WATER PER MINERAL DEED RECORDED SEPTEMBER 15, 2006 AS INSTRUMENT NO. 2006-0665373, OF OFFICIAL RECORDS, RECORDS OF RIVERSIDE COUNTY.

DRH ENERGY, INC., A COLORADO CORPORATION OWNER OF ANY AND ALL OIL, GAS, MINERAL, GEOTHERMAL AND OTHER HYDROCARBON SUBSTANCES, WATER RIGHTS AND CLAIMS TO WATER PER MINERAL DEED RECORDED SEPTEMBER 15, 2006 AS INSTRUMENT NO. 2006-0665373, OF OFFICIAL RECORDS, RECORDS OF RIVERSIDE COUNTY.

NOTICE OF DRAINAGE FEES

NOTICE IS HEREBY GIVEN THAT THIS PROPERTY IS LOCATED IN THE SALT CREEK CHANNEL, WINCHESTER/NORTH HEMET AREA DRAINAGE PLAN WHICH WAS ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE PURSUANT TO SECTION 10.25 OF ORDINANCE 460 AND SECTION 66463, ET SEQ. OF THE GOVERNMENT CODE AND THAT SAID PROPERTY IS SUBJECT TO FEES FOR SAID DRAINAGE AREA.

NOTICE IS FURTHER GIVEN THAT, PURSUANT TO SECTION 10.25 OF ORDINANCE 460, PAYMENT OF THE DRAINAGE FEES SHALL BE PAID WITH CASHIER'S CHECK OR MONEY ORDER ONLY TO THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AT THE TIME OF ISSUANCE OF THE GRADING OR BUILDING PERMIT FOR SAID PARCELS, WHICHEVER OCCURS FIRST, AND THAT THE OWNER OF EACH PARCEL, AT THE TIME OF ISSUANCE OF EITHER THE GRADING OR BUILDING PERMIT, SHALL PAY THE FEE REQUIRED AT THE RATE IN EFFECT AT THE TIME OF ISSUANCE OF THE ACTUAL PERMIT.

VALLEY-WIDE RECREATION AND PARK DISTRICT

THE VALLEY-WIDE RECREATION AND PARK DISTRICT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, HEREBY APPROVED THE TRACT MAP BUT DOES NOT NOW ACCEPT THE IRREVOCABLE OFFERS OF DEDICATION MADE HEREON.

DATE: 7-26-2023

BY:
SEAN METTER
GENERAL MANAGER

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE. AT THE REQUEST OF FPG TRICON WOODS PROPERTY LLC, ON AUGUST 11, 2021, I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN ACCORDANCE WITH THE TERMS OF THE MONUMENT AGREEMENT FOR THE MAP AND THAT THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACTED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. THIS SURVEY IS TRUE AND COMPLETE AS SHOWN.

DATE: 6-7 2023

EDY P. ADKISON L.S. 5390
EXPIRATION DATE: 9-30-2024



COUNTY SURVEYOR'S STATEMENT

THIS MAP CONFORMS TO THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES. I HEREBY STATE THAT THIS MAP HAS BEEN EXAMINED BY ME OR UNDER MY SUPERVISION AND FOUND TO BE SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP OF TRACT NO. 32818 AS FILED, AMENDED, AND APPROVED BY THE BOARD OF SUPERVISORS ON MARCH 22, 2006, THE EXPIRATION DATE BEING SEPTEMBER 01, 2023, AND THAT I AM SATISFIED THIS MAP IS TECHNICALLY CORRECT.

DATE: 7-24 2023

DAVID L. McMILLAN, COUNTY SURVEYOR
L.S. 8488
EXPIRATION DATE: 12-31-2024



BOARD OF SUPERVISOR'S STATEMENT

THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BY ITS BOARD OF SUPERVISORS, HEREBY APPROVES THE TRACT MAP AND ACCEPTS THE OFFERS OF DEDICATION MADE HEREON FOR PUBLIC ROAD AND PUBLIC UTILITY PURPOSES, AND AS PART OF THE COUNTY MAINTAINED ROAD SYSTEM, SUBJECT TO IMPROVEMENTS IN ACCORDANCE WITH COUNTY STANDARDS.

THE OFFERS OF DEDICATION FOR PUBLIC UTILITY PURPOSES ALONG WITH THE RIGHT OF INGRESS AND EGRESS FOR EMERGENCY VEHICLES, INDICATED AS "PRIVATE ROAD EASEMENT" ARE HEREBY ACCEPTED.

THE OFFER OF DEDICATION OF ABUTTERS RIGHTS OF ACCESS ALONG BLALOCK PLACE ARE HEREBY ACCEPTED.

THE OFFER OF DEDICATION OF ABUTTERS RIGHTS OF ACCESS ALONG WESTERN HILL DRIVE, PRAIRIE LOOP ROAD AND DOMENIGNONI PARKWAY ARE HEREBY ACCEPTED.

THE OFFER OF DEDICATION MADE HEREON OF THE FLOOD CONTROL EASEMENT IS HEREBY NOT ACCEPTED.

THE OFFER OF DEDICATION MADE HEREON OF THE STORM DRAIN EASEMENT IS HEREBY NOT ACCEPTED.

THE OFFER OF DEDICATION MADE HEREON OF THE ACCESS EASEMENT FOR INGRESS AND EGRESS TO AND FROM FLOOD CONTROL AND STORM DRAIN EASEMENTS, FOR CONSTRUCTION AND MAINTENANCE OF FLOOD CONTROL FACILITIES, IS HEREBY NOT ACCEPTED.

THE OFFER OF DEDICATION MADE HEREON OF THE DRAINAGE EASEMENT IS HEREBY ACCEPTED FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE FACILITIES, AND AS PART OF THE COUNTY MAINTAINED SYSTEM, SUBJECT TO IMPROVEMENTS IN ACCORDANCE WITH COUNTY STANDARDS.

DATE: August 1 2023

COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

BY:
CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST: KIMBERLY RECTOR
CLERK OF THE BOARD OF SUPERVISORS
BY:
DEPUTY

ABANDONMENT NOTE

PURSUANT TO SECTIONS 66434 AND 66499.20.2 OF THE SUBDIVISION MAP ACT, THE APPROVAL AND RECORDED OF THIS TRACT MAP CONSTITUTES ABANDONMENT OF THE FOLLOWING:

THOSE PORTIONS OF AN EASEMENT IN FAVOR OF THE PUBLIC FOR STREET AND PUBLIC UTILITY PURPOSES, WITHIN LOT "D" OF PARCEL MAP NO. 14338, PER MAP FILED IN BOOK 104 OF PARCEL MAPS, AT PAGE 4, RECORDS OF RIVERSIDE COUNTY WITHIN THE BOUNDARY OF THIS TRACT MAP.

THOSE PORTIONS OF AN EASEMENT IN FAVOR OF THE COUNTY OF RIVERSIDE FOR DRAINAGE AND INCIDENTAL PURPOSES, RECORDED AUGUST 24, 2004 AS INSTRUMENT NO. 2004-0666520, OF OFFICIAL RECORDS WITHIN THE BOUNDARY OF THIS TRACT MAP.

THOSE PORTIONS OF AN EASEMENT IN FAVOR OF THE COUNTY OF RIVERSIDE FOR SLOPE AND INCIDENTAL PURPOSES, RECORDED AUGUST 24, 2004 AS INSTRUMENT NO. 2004-0666519, OF OFFICIAL RECORDS WITHIN THE BOUNDARY OF THIS TRACT MAP.

TAX BOND CERTIFICATE

I HEREBY CERTIFY THAT A BOND IN THE SUM OF \$ 54,500.00 HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, CALIFORNIA, CONDITIONED UPON THE PAYMENT OF ALL TAXES, STATE, COUNTY, MUNICIPAL, OR LOCAL, AND ALL SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH AT THE TIME OF FILING OF THIS MAP WITH THE COUNTY RECORDER ARE A LIEN AGAINST SAID PROPERTY BUT NOT YET PAYABLE AND SAID BOND HAS BEEN DULY APPROVED BY SAID BOARD OF SUPERVISORS.

DATE: JUNE 13 2023

CASH OR SURETY BOND

MATTHEW JENNINGS
COUNTY TAX COLLECTOR

BY:
DEPUTY

THIS CERTIFICATION EXCLUDES ANY
SUPPLEMENTAL TAX ASSESSMENTS NOT
YET EXTENDED

TAX COLLECTOR'S CERTIFICATE

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE PROPERTY SHOWN ON THE WITHIN MAP FOR UNPAID STATE, COUNTY, MUNICIPAL, OR LOCAL TAXES, OR SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES NOW A LIEN BUT NOT YET PAYABLE, WHICH ARE ESTIMATED TO BE \$ 54,500.00

DATE: JUNE 13 2023

MATTHEW JENNINGS
COUNTY TAX COLLECTOR

BY:
DEPUTY

THIS CERTIFICATION EXCLUDES ANY
SUPPLEMENTAL TAX ASSESSMENTS NOT
YET EXTENDED

2.15



TRANSPORTATION DEPARTMENT

FORM 11 SUMMARY/ROUTING FORM

BOARD APPROVAL REQUIRED: Yes No
 COUNTY COUNSEL APPROVAL: Yes No

<input type="checkbox"/> AGREEMENT/CONTRACT	NO.:
---	------

REQUESTED BOARD DATE: 8/1/2023	CAN IT GO AT A LATER DATE: <input type="checkbox"/> YES <input type="checkbox"/> NO
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<input type="checkbox"/> AMENDMENT	NO.	<input type="checkbox"/> CHANGE ORDER	NO.
<input type="checkbox"/> RESOLUTION	NO.	<input type="checkbox"/> ORDINANCE	NO.
<input type="checkbox"/> AWARD PACKAGE	<input checked="" type="checkbox"/> FINAL MAP	<input type="checkbox"/> ACQUISITION/EDA	<input type="checkbox"/> ADVERTISEMENT PACKAGE
<input type="checkbox"/> OTHER:	SUPERVISORIAL DISTRICT: 3		

PROJECT/SUBJECT:
FINAL TRACT MAP NO: 32818 (Schedule "A")
DESCRIPTION: APPROVAL OF FINAL TRACT MAP.

CONTRACTING PARTY: Gina Ness	W.O. NO.: FSM32818 (TC-SU21)(DBF)
PROJECT MANAGER: Gina Ness	EXTENSION: 5-6711
FORM 11 AUTHOR/CONTACT: Gina Ness	EXTENSION:

FISCAL

AMOUNT: \$ (0)	CHANGE ORDER AMOUNT: \$
FUNDING SOURCE (S): Applicant Fees	FUNDING SOURCE(S):

ROUTING

SPECIAL ROUTING INSTRUCTIONS (e.g., who receives original agreements, companion item, rush, etc.):
THE FINAL TRACT MAP AND 3 COPIES OF THE IMPROVEMENT AGREEMENTS ARE TO BE EXECUTED BY THE CHAIR OF THE BOARD. COB RETAINS 1 COPY OF EACH OF THE IMPROVEMENT AGREEMENT AND RETURNS THE 2 REMAINING COPIES TO TRANSPORTATION.
THE FINAL TRACT MAP AND TWO SETS OF CC&R'S, ONE FOR TRACTS 32817, 32818 & 33743 AND ONE FOR TRACTS 32816 & 32818, ARE TO BE DELIVERED TO THE COUNTY RECORDER.

MINUTETRAQ (MT) NO:	TRANS TRACKING ID:	DATE RECEIVED:	INITIALS:
22437			

8/1/23
2023-7-156024

RECORDING REQUESTED BY:

First American Title Company
Homebuilder Services Division

WHEN RECORDED MAIL TO:

First American Title Company
1250 Corona Pointe, Suite 200
Corona, CA 92879

Order: 4554644

SUBDIVISION GUARANTEE

TRACT NO. 32818

SUBDIVISION GUARANTEE

Fee: \$150.00
Tract No. 32818

First American Title Insurance Company
a corporation

GUARANTEES

The County of Riverside and any City within which said subdivision is located in a sum not exceeding \$10,000.00.

That, according to those public records which, under the recording laws, impart constructive notice of matters affecting the title to the land included within the exterior boundary shown on the map of the above referenced subdivision, the only parties having any record title interest in said land whose signatures are necessary, under the requirements of the Subdivision Map Act, on the certificates consenting to the recordation of said map and offering for dedication any streets, roads, avenues and other easements offered for dedication by said map are:

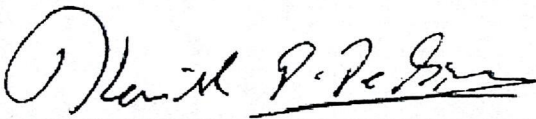
FPG TRICON WOODS PROPERTY LLC, A DELAWARE LIMITED LIABILITY COMPANY, OWNER

The map hereinbefore referred to is a subdivision of:

BEING A SUBDIVISION OF LOT 2 OF NOTICE OF LOT LINE ADJUSTMENT NO. 05482 RECORDED AUGUST 19, 2014 AS INSTRUMENT NO. 2014-313562 PERFECTED BY DEED RECORDED AUGUST 12, 2022 AS DOCUMENT NO. 2022-0356207, BOTH OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, LYING WITHIN SECTION 32, TOWNSHIP 5 SOUTH, RANGE 2 WEST, S.B.M.

Dated: June 16, 2023

FIRST AMERICAN TITLE INSURANCE COMPANY

By: 
Kenneth D. DeGiorgio, President

By: 
Lisa W. Cornehl, Secretary

Additional Attachments
Filed with Item No:
2.16

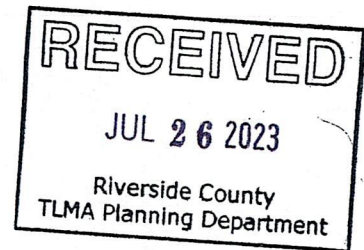
Board Date:
August 1, 2023

Topic:
CC&Rs



MEMORANDUM

RIVERSIDE COUNTY COUNSEL



DATE: July 26, 2023
TO: Kathleen Mitchell, TLMA Panning
FROM: Stephanie K. Nelson, Deputy County Counsel
Mary E. Miller, Senior Legal Support Assistant
RE: Declaration of Covenants, Conditions and Restrictions and Establishment of Easements for Tricon Winchester (TR 32817, TR 32818, and TR 33743)

We have reviewed the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Tricon Winchester (TR 32817, TR 32818, and TR 33743) (CC&R's) submitted by Jackson Tidus.

As forwarded herewith, the documents are **APPROVED** as to form.

Accordingly, the requirements for Declarations of CC&R's for TR 32817, TR 32818, and TR 33743 are **SATISFIED**.

cc: Bryan Ingersoll (bingersoll@foremostpacific.com)
Bryan Bergeron (bbergeron@foremostpacific.com)
Amber Turner (amber@pureconsultingservices.com)
Stephanie Nation (snation@jacksontidus.law)
Paulette Izaguirre, County of Riverside TLMA (PIzaguir@rivco.org)

Prolaw ID: 202351114

RECORDING REQUESTED BY:

WHEN RECORDED, MAIL TO:

JACKSON TIDUS (SAN)
2030 Main Street, Suite 1200
Irvine, CA 92614

(Space Above for Recorder's Use)

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND RESERVATION OF EASEMENTS**

FOR

TRICON WINCHESTER

NOTE: SECTION 12.4 OF THIS DECLARATION CONTAINS A BINDING ARBITRATION PROVISION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT. THE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES IN THIS DECLARATION DO NOT UTILIZE A JURY AND DO NOT PERMIT CLASS ACTION SUITS. YOU SHOULD CONSULT LEGAL COUNSEL WITH ANY QUESTIONS ON THESE OR OTHER PROVISIONS OF THIS DECLARATION.

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

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND RESERVATION OF EASEMENTS**

FOR

TRICON WINCHESTER

This Declaration of Covenants, Conditions, Restrictions and Reservation of Easements is made by FPG TRICON WOODS PROPERTY, LLC, a Delaware limited liability company. The capitalized terms used in the Preamble below are defined in Article 1.

PREAMBLE

A. Declarant is the owner of real property ("*Community*") in the unincorporated area of the County of Riverside, California, described as follows:

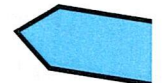
Lots 1, A B and C of Tract No. 32817, as shown on a subdivision map Recorded in Book _____, at Pages ___ to ___, inclusive, of Maps, in the Office of the Riverside County Recorder;



Lots 1, A and B of Tract No. 32818, as shown on a subdivision map Recorded in Book _____, at Pages ___ to ___, inclusive, of Maps, in the Office of the Riverside County Recorder; and



Lot 1 of Tract No. 33743, as shown on a subdivision map Recorded in Book _____, at Pages ___ to ___, inclusive, of Maps, in the Office of the Riverside County Recorder.



B. Declarant intends to create a "common interest development" within the meaning of Section 4100 of the Davis-Stirling Common Interest Development Act ("*CID Act*") or successor provision, which is also a "condominium project," as defined in California Civil Code Section 4125, a "planned development," as defined in California Civil Code Section 4175, and a "subdivision" as defined in California Business and Professions Code Section 11000. Declarant intends to impose mutually beneficial restrictions under a general plan for subdividing, maintaining, improving and selling the Condominiums in the Community for the benefit of all the Condominiums pursuant to the Davis-Stirling Common Interest Development Act. The general plan of development will include forming an owners association under the California Non-Profit Mutual Benefit Corporations Law to which will be assigned the powers of (1) owning, maintaining and administering the Association Property, (2) administering and enforcing the Governing Documents, and (3) collecting and disbursing the Assessments and charges hereinafter created. Declarant will cause the corporation to be formed to exercise such powers, as required under the CID Act. The Members of the Association will be the Owners in the Community, as further provided in Article 4 herein.

C. If developed as currently planned, the Community will consist of up to 266 Residences, together with various common amenities which will be owned and operated by the Association.

D. The Community is to be held, conveyed, encumbered, leased, used and improved subject to covenants, conditions, restrictions and easements in this Declaration, all of which are in furtherance of a plan for subdividing, maintaining, improving and selling the Condominiums in the Community. All provisions of this Declaration are imposed as equitable servitudes on the Community. All covenants, conditions, restrictions and easements in this Declaration shall run with and burden the Community, and be binding on and for the benefit of all of the Community and all Persons acquiring any interest in the Community.

E. The Community is also subject to Conditions of Approval which were imposed by the County. Each Owner and the Association shall comply with the applicable provisions of the Conditions of Approval.

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings.

1.1.1 **Annual Assessment.** Annual Assessment means a charge against the Owners and their Condominiums representing their share of the Common Expenses. The Annual Assessment is a regular assessment as described in California Civil Code Section 5605(b).

1.1.2 **Articles of Incorporation; Articles of Association; Articles.** Articles of Incorporation mean the Articles of Incorporation of the Association. Articles of Association mean the Articles of Association of the Association. The Association will initially have Articles of Association during the Rental Period and Declarant may file Articles of Incorporation prior to the first Close of Escrow of a Unit to a member of the public pursuant to a Public Report or at such other time prior to such first Close of Escrow as determined by Declarant in its sole and absolute discretion. A copy of the initial form of Articles of Association is attached as *Exhibit A* in form currently in effect as of the date of Recordation hereof. The Association may from time to time amend the Articles of Association or file Articles of Incorporation without need to amend this Declaration. In such event, the amended Articles of Association or new Articles of Incorporation shall control over the version attached hereto. The Articles of Association and Articles of Incorporation may be referred to herein solely as the Articles.

1.1.3 **Assessment.** Assessment means any Annual Assessment, Capital Improvement Assessment, Reconstruction Assessment and Special Assessment.

1.1.4 **Association.** Association means Tricon Winchester Community Association, a California nonprofit corporation (formed pursuant to the California Nonprofit Mutual Benefit Corporation Law or successor statutes), and its successors-in-interest. The Association is an "association" as defined in California Civil Code Section 4080, or its successor statutes. If the Association is not formed, or if it is formed during the Rental Period, all obligations of the Association shall be performed by the Single Responsible Party, unless otherwise designated in a Supplemental Declaration.

1.1.5 **Association Maintenance Funds.** Association Maintenance Funds means the accounts created for Association receipts and disbursements pursuant to Article 7.

1.1.6 **Association Property.** Association Property means real or personal property designated by the Declarant or the Board as Association Property and therefore made subject to the restrictions on Association Property established in the Governing Documents. Any references in this Declaration to Association Property are references to the Association Property as a whole and to portions thereof.

(a) **Generally.** The Association Property in the Community consists of (i) all the real property described as Association Property in the Condominium Plan, and (ii) such additional real property and Improvements thereon as may be designated Association Property in the Governing Documents, all the foregoing constituting "common area," as that term is defined in California Civil Code Section 4095), together with all personal property and such easements as may be transferred or conveyed to the Association from time to time or appurtenant to the Association's fee interest in the land and Improvements. The Association Property in the Community includes, without limitation, the following:

(i) **Common Amenities.** Landscaped and irrigated areas, portions of Community Walls, Private Drives and Motor Courts (including paved road surface, curbs, gutters, drive approaches, and walkways), entry gates, walls, fences, landscaping within the Association owned property, street lights, paseos, walkways, passive park area(s), clustered mailboxes, drainage Improvements, stormwater treatment Improvements, water quality facilities, irrigation equipment and backflow devices, the Recreational Areas, area lighting fixtures, identification signs, and other Improvements in the Association Property which are not maintained by a public agency or a utility; and

(ii) **Easements Granted to or Reserved for the Association.** In addition, Association Property includes easements for access, ingress, egress, encroachment, enforcement, support, maintenance, drainage, and repair, all as reserved in the Governing Documents, or in the Map, or in other Recorded instruments ("**Association Maintenance Areas**"), provided, however, the Association shall only have the responsibility for maintenance of the Improvements located on or in such easements where such maintenance responsibility is assigned to the Association in a recorded Governing Document or in the Association's Budget. The Association shall maintain the landscaping, consisting of softscape and irrigation equipment located on the front yards of the Units. Additional Association Maintenance Areas may be identified in a Supplemental Declaration.

1.1.7 **BMPs.** BMPs means "Best Management Practices," which are methods, protocols and procedures for the control, reduction and prevention of storm water and pollutant runoff from the Community into storm drains and waterways. BMPs are imposed on the Community through the requirements of the Water Quality Management Plan (defined below). BMPs may include landscape maintenance and runoff prevention requirements for the Association and Owners, and other practices and procedures that must be followed by the Association and by all occupants of the Community.

1.1.8 **Board or Board of Directors.** Board or Board of Directors means the Association's Board of Directors.

1.1.9 **Budget.** Budget means a written, itemized estimate of the Association's income and Common Expenses prepared pursuant to the Bylaws.

1.1.10 **Bylaws.** Bylaws means the Bylaws of the Association as currently in effect. A copy of the Bylaws as initially adopted by the Board is attached as *Exhibit B*. The Association may from time to time amend the Bylaws without need to amend this Declaration. In such event, the amended Bylaws shall control over the version attached hereto.

1.1.11 **Capital Improvement Assessment.** Capital Improvement Assessment means a charge against the Owners and their Condominiums representing their share of the Association's costs incurred in installing, constructing, upgrading or modifying major or capital Improvements on the Association Property, and which costs are not regular scheduled maintenance costs or reserves in the adopted Budget. Capital Improvement Assessments shall be levied in the same proportion as Annual Assessments. Capital Improvement Assessments are special assessments imposed in accordance with the requirements of California Civil Code Section 5605(b).

1.1.12 **CID Act.** CID Act means the Davis-Stirling Common Interest Development Act and its successor provisions at California Civil Code Sections 4000 to 6150, or to subsequently enacted replacement statutes.

1.1.13 **Close of Escrow.** Close of Escrow means the date on which a deed is Recorded conveying a Condominium pursuant to a transaction requiring the issuance of a Public Report.

1.1.14 **Common Expenses.** Common Expenses means those expenses for which the Association is responsible under this Declaration. Common Expenses include the actual and estimated costs of and reserves for maintaining, managing and operating the Association Property (including amounts this Declaration imposes on the Association for maintenance), including:

- (a) Policies of Insurance required to be carried by the Association under Article 8;
- (b) Maintenance of the Private Drives and Motor Courts;
- (c) Replacement, maintenance and operation of Private Drives and Motor Courts lighting and area lighting in the Community;
- (d) Maintenance services for the Association Property, including landscape maintenance and those areas designated as Association Maintenance Areas;
- (e) All utilities (including sewer and water) and mechanical and electrical equipment serving the Association Property, and trash collection and removal from central receptacles;
- (f) Managing and administering the Association, compensating the Manager, accountants, attorneys and employees, all insurance covering the Community and the Directors, officers and agents of the Association, and bonding the members of the Board;

(g) The cost to repair damage to public utility Improvements if caused by the Association during installation, maintenance or repair of private utility Improvements or other Association Property;

(h) The cost of Association maintenance and performance of BMPs specified in the Water Quality Management Plan, including those discussed in Section 2.6 to the extent applicable to the Association Property;

(i) Unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments;

(j) Taxes paid by the Association;

(k) Amounts paid by the Association for discharge of any lien or encumbrance levied against the Community, and

(l) All other expenses incurred by the Association for the Community, for the common benefit of the Owners.

1.1.15 Community. The Community is a “condominium project” as defined in California Civil Code Section 4125, a “planned development,” as defined in California Civil Code Section 4175, and a “common interest development” as defined in California Civil Code Section 4100. Any references in this Declaration to the Community are references to the Community as a whole and to portions thereof. The Community is planned to include up to two hundred sixty-six (266) Condominiums.

1.1.16 Community Wall. Community Wall means any fences and walls in the Community that are located within Association owned property. Community Walls do not include walls and fences bordering a Unit’s yard area, unless otherwise specified in a Supplemental Declaration. Additional Community Walls may be designated in a Supplemental Declaration.

1.1.17 Conditions of Approval. Conditions of Approval means the Conditions of Approval for Tentative Tract No. 32817, Tentative Tract No. 32818 and Tentative Tract No. 33743, approved by the County, as may be amended or revised from time to time.

1.1.18 Condominium. Condominium means an estate in real property as defined in California Civil Code Section 4125. A Condominium consists of an undivided fee-simple ownership interest in the Condominium Common Area in the Community, together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. Subject to the provisions of Section 10.3, the undivided fee-simple interest in the Condominium Common Area in the Community is appurtenant to each Unit in the Community and is a fraction having one (1) as its numerator and the number of Units in the Community as its denominator; and it shall be held by the Owners of Condominiums in the Community as tenants-in-common.

1.1.19 Condominium Common Area. Condominium Common Area means the volumes of airspace described in the Condominium Plans for the Community, which shall be owned by the Owners of the Units in the Community as tenants-in-common. Any references in this Declaration to Condominium Common Area are references to the Condominium Common

Area as a whole and to portions thereof. The Condominium Common Area in the Community constitutes the "undivided interest-in-common in a portion of the real property," in accordance with California Civil Code Section 4125.

1.1.20 Condominium Plans. Condominium Plans means the Recorded plan, as currently in effect, for the Community consisting of (a) a description or survey map of the Community or portion thereof, which shall refer to or show monumentation on the ground, (b) a three dimensional description of the Community or portion thereof, one or more dimensions of which may extend for an indefinite distance upwards or downwards in sufficient detail to identify the Association Property, Condominium Common Area and each Unit, and (c) a certificate consenting to the Recordation thereof signed and acknowledged by the record owner of fee title to the Community or portion thereof, and by either the trustee or the Mortgagee of each Recorded Mortgage encumbering the Community or portion thereof.

1.1.21 County. County means Riverside County, California, and its various departments, divisions, employees and representatives. If the Community is eventually annexed into an incorporated city, then the term shall include the city to which the Community has been annexed.

1.1.22 Declarant. Declarant means FPG TRICON WOODS PROPERTY, LLC, a Delaware limited liability company, and shall include those successors and assigns of FPG TRICON WOODS PROPERTY, LLC, a Delaware limited liability company, who acquire or hold title to any part or all of the Property and are expressly named as a successor Declarant to all or a portion of Declarant's rights in an Assignment of Declarant's Rights ("Assignment of Declarant's Rights") executed by Declarant or a successor Declarant, and recorded in the Official Records assigning the rights and duties, or only certain rights and duties, of Declarant to such successor Declarant, and such successor Declarant accepts the assignment of such rights and duties. There may be multiple Declarants at any particular time.

1.1.23 Declaration. Declaration means this instrument as currently in effect.

1.1.24 Design Guidelines. Design Guidelines mean the rules or guidelines setting forth procedures and standards for submission of plans for Design Review Committee approval.

1.1.25 Design Review Committee or Committee. Design Review Committee or Committee means the Design Review Committee created in accordance with Article 5.

1.1.26 DRE. DRE means the California Department of Real Estate and any department or agency of the California state government which succeeds to DRE's functions.

1.1.27 Family. Family means natural individuals, related or not, who live as a single household in a Residence.

1.1.28 Fannie Mae. Fannie Mae means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968 and its successors.

1.1.29 **FHA.** FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and its successors.

1.1.30 **FHA Requirements.** FHA Requirements means, collectively, the requirements applicable to the Community as set forth in (a) the U.S. Department of Housing and Urban Development (HUD) FHA Single Family Housing Policy Handbook (Handbook 4000.1) and (b) the HUD Condominium Regulations of the National Housing Act, Title 24 CFR Part 203, all as updated, amended, restated, revised or replaced from time to time.

1.1.31 **FHFA.** FHFA means the Federal Housing Finance Agency, established pursuant to the Housing and Economic Recovery Act of 2008, and its successors.

1.1.32 **First Mortgage.** First Mortgage means a Mortgage with first priority over other Mortgages on a Condominium.

1.1.33 **First Mortgagee.** First Mortgagee means the Mortgagee of a First Mortgage.

1.1.34 **Fiscal Year.** Fiscal Year means the fiscal accounting and reporting period of the Association.

1.1.35 **Freddie Mac.** Freddie Mac means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970 and its successors.

1.1.36 **Ginnie Mae.** Ginnie Mae means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development and its successors.

1.1.37 **Governing Documents.** Governing Documents means this Declaration, the Articles, Bylaws, Design Guidelines, Rules and Regulations and Supplemental Declarations.

1.1.38 **HUD.** HUD means the United States Department of Housing and Urban Development and its successor agencies.

1.1.39 **Improvement.** Improvement means any structure and any appurtenance thereto. The Design Review Committee may identify additional items that are Improvements.

1.1.40 **Include, Including.** Whether capitalized or not, include and including means “includes without limitation” and “including without limitation,” respectively.

1.1.41 **Local Government Agency.** Local Government Agency means the County, a public school district, a public water district, any special assessment district, maintenance district or community facilities district and any other local or municipal governmental entity or agency.

1.1.42 **Maintain, Maintenance.** Whether capitalized or not, maintain and maintenance mean “maintain, repair and replace” and “maintenance, repair and replacement,” respectively; provided however, that maintain or maintenance shall not include repair and

replace(ment) where the context or specific language of this Declaration provides another meaning.

1.1.43 **Maintenance Guidelines.** Maintenance Guidelines means any current written guidelines, setting forth procedures and standards for the maintenance and operation of Association Property or the Condominiums. Maintenance Guidelines may be provided by Declarant, by the Association, or by any governmental agency. Maintenance Guidelines include any maintenance manual initially prepared at Declarant's direction and containing recommended frequency of inspections and maintenance activities for components of the Association Property or pertaining to a Condominium.

1.1.44 **Manager.** Manager means the Person retained by the Association to perform management functions of the Association as limited by the Governing Documents and the terms of the agreement between the Association and the Person. The Manager shall at all times be a professional manager employed as an independent contractor or agent working at its own place of business.

1.1.45 **Map.** Map means the final recorded map of Tract No. 32817, 32818 and 33743, all as described in Preamble Paragraph A above.

1.1.46 **Membership.** Membership means the voting and other rights, privileges, and duties established in the Governing Documents for Association members.

1.1.47 **Mortgage.** Mortgage means any Recorded document, including a deed of trust, by which a Condominium, Condominiums, or Association Property is/are hypothecated to secure performance of an obligation.

1.1.48 **Mortgagee.** Mortgagee means a Person to whom a Mortgage is made, or the assignee, guarantor or insurer of the Mortgagee's rights under the Mortgage by a recorded instrument. For purposes of this Declaration, the term Mortgagee includes a beneficiary under a deed of trust.

1.1.49 **Mortgage Majority.** Mortgage Majority means the First Mortgagees holding First Mortgages that in the aggregate encumber at least fifty-one percent (51%) of the Condominiums that are subject to Mortgages. For purposes of any provisions of the Governing Documents which requires the vote or approval of a Mortgagee Majority, such vote or approval is determined based on one (1) vote for each Condominium encumbered by a First Mortgage held by a First Mortgagee.

1.1.50 **Mortgagor.** Mortgagor means a person who has mortgaged his property. For purposes of this Declaration, the term Mortgagor shall include a trustor under a deed of trust.

1.1.51 **Motor Court.** Motor Court means each of the paved alleys around which Condominiums are grouped. The Motor Courts are or will be part of the Association Property owned and maintained by the Association.

1.1.52 **Mutual Benefit Declaration.** Mutual Benefit Declaration encumbering the Community and the residential community proposed to be developed immediately adjacent to the

Community (“*Adjacent Residential Development*”). The purpose of the Mutual Benefit Declaration is to describe the easement rights to be held by and conveyed to the parties to the Mutual Benefit Declaration, which include use of the interior loop road serving the homes in Tract No. 32817 and 32818 of the Community and the Adjacent Residential Development.

1.1.53 **Notice and Hearing.** Notice and Hearing means written notice and a hearing before the Board as provided in the Bylaws.

1.1.54 **Official Records.** Official Records means the Official Records of the County.

1.1.55 **Operating Fund.** Operating Fund means that portion of the Common Expenses allocated in the Budget for the daily operation of the Association.

1.1.56 **Owner.** Owner means the Person or Persons, including Declarant, holding fee simple interest to a Condominium. The term “Owner” includes sellers under executory contracts of sale but excludes Mortgagees. The term “Owner” may be expanded in a Supplemental Declaration to include other Persons.

1.1.57 **Party Wall.** Party Wall means any wall or fence that is constructed by Declarant between adjacent Units (whether or not constructed on the legal property boundary). Party Walls are not Community Walls.

1.1.58 **Person.** Person means a natural individual or any legal entity recognized under California law. When the word “person” is not capitalized, the word refers only to natural persons.

1.1.59 **Private Drive.** Private Drive means any private drive, alley or motor court in the Community.

1.1.60 **Public Report.** Public Report means the Final Subdivision Public Report issued by DRE.

1.1.61 **Reconstruction Assessment.** Reconstruction Assessment means a charge levied against the Owners and their Condominiums representing their share of the Association’s extraordinary expense to repair or reconstruct Association Property as provided in California Civil Code Section 5610. Such charge shall be levied among all Owners and their Condominiums in the same proportions as Annual Assessments Reconstruction Assessments are “special assessments” as described in California Civil Code Section 5605(b).

1.1.62 **Record or File.** Record or File means, concerning any document, the entry of such document in Official Records.

1.1.63 **Recreational Areas.** Recreational Areas means the private Recreational Areas planned to be constructed within the Community. The Recreational Areas will be conveyed to the Association as part of the Association Property in accordance with Declarant’s development plan.

1.1.64 Rental Period. Rental Period means the time period during which Declarant or an SFR Owner is renting Units in the Community. The Rental Period will expire upon the first Close of Escrow of a Unit in the Community to a member of the public pursuant to a Public Report. If the Declarant chooses to create sales phases through the use of multiple Public Reports, then the Rental Period shall only expire as to the Units covered by a Public Report on the first Close of a Unit in that same Public Report.

1.1.65 Reserve Fund. Reserve Fund means that portion of the Common Expenses allocated for the future repair and replacement of, or additions to, structural elements, mechanical equipment and other major components of Association-maintained Improvements.

1.1.66 Residence. Residence means the dwelling unit constructed on a Unit, which is designed and intended for use and occupancy as a residence by a single Family. Subject to applicable laws governing Accessory Dwelling Units or Junior Accessory Dwelling Units as defined in Sections 65852.2 and 65852.22 of the California Government Code, respectively, the term excludes the garage area of a Unit.

1.1.67 Right to Repair Law. Right to Repair Law means California Civil Code Sections 895 through 945.5.

1.1.68 Right to Repair Law Claim. Right to Repair Law Claim means any claim brought by one or more Owners or by the Association against one or more Declarant Parties (as defined in Section 12.4) on any design construction defect matters that are governed by the Right to Repair Law.

1.1.69 Rules and Regulations. Rules and Regulations or "Rules" means the current rules and regulations for the Community.

1.1.70 SFR Owner. SFR Owner means an Owner, other than Declarant, that is designated by Declarant as an SFR Owner and that is a single-family rental company in the business of leasing multiple Condominiums. Declarant may also designate certain rights and exemptions hereunder to such SFR Owner. Each SFR Owner shall give written notice to the Association that such owner is an "SFR Owner," which notice shall identify the Condominiums that are owned by such SFR Owner.

1.1.71 Sideyard Benefited Unit. Sideyard Benefited Unit means a Unit that is benefited by an appurtenant Sideyard Easement reserved by Declarant in Section 6.1.13 of this Declaration over an adjacent Sideyard Burdened Unit.

1.1.72 Sideyard Burdened Unit. Sideyard Burdened Unit means a Unit on which a Sideyard Easement has been reserved by Declarant in Section 6.1.13 of this Declaration.

1.1.73 Sideyard Easement. Sideyard Easement means a portion of a Sideyard Burdened Unit over which Declarant has reserved a nonexclusive easement for access for maintenance of the Residence, landscaping and any fencing constructed on a Sideyard Benefited Unit (as further described in Section 6.1.13) or on the border between the Sideyard Benefited Unit and the Sideyard Burdened Unit for the benefit of and appurtenant to the adjacent Sideyard Benefited Unit.

1.1.74 Single Responsible Party. Single Responsible Party means Declarant or the person or entity designated by Declarant to manage, maintain and operate the Community during the Rental Period and in any event prior to the first Close of Escrow of a Condominium in the Community to a member of the public pursuant to a Public Report. All references to the Association shall mean and refer to the Single Responsible Party during the Rental Period.

1.1.75 Special Assessment. Special Assessment means each of the following:

(a) A reasonable monetary penalty imposed against an Owner and the Owner's Condominium in accordance with California Civil Code Section 5725(b), as a disciplinary measure for the failure of an Owner to comply with the Governing Documents (but which may not be characterized nor treated in the Governing Documents as an Assessment that may become a lien enforceable by sale of the Condominium); or

(b) A monetary charge imposed against an Owner and the Owner's Condominium in accordance with California Civil Code Section 5725(a) to recover costs incurred by the Association (i) to bring an Owner and the Owner's Condominium into compliance with the Governing Documents, or (ii) in the repair of damage to Association Property caused by the Owner or the Owner's Family, contractors, residents, tenants or guests, all as further described in the CID Act and this Declaration. Provided, however, that in accordance with Section 2792.26(c) of Title 10, Chapter 6, California Code of Regulations, monetary charges described in this Section (b) which are imposed before the last Close of Escrow in the Community may not be characterized or treated as a lien enforceable by judicial foreclosure and sale of the Condominium; or

(c) A Capital Improvement Assessment; or

(d) A Reconstruction Assessment; or

(e) Any other Assessment or increase imposed pursuant to California Civil Code Section 5610 to pay an extraordinary expense or to make up a shortfall in any Operating Fund or Reserve Fund or for other purposes permissible thereunder.

1.1.76 Supplemental Declaration. Supplemental Declaration means an instrument Recorded by Declarant against all or a portion of the Community in order to supplement, modify, or clarify conditions, covenants, restrictions or easements established under this Declaration. A Supplemental Declaration may affect one or more Condominiums, Condominium Common Area and Association Property. A Supplemental Declaration may modify this Declaration only as it applies to the property encumbered by the Supplemental Declaration.

1.1.77 Telecommunications Facilities. Telecommunications Facilities means Improvements constructed in the Community, including cables, conduits, ducts, vaults, connecting hardware, wires, poles, transmitters, towers, antennae and other devices now existing or that may be developed in the future to provide Telecommunication Services to the Community.

1.1.78 Telecommunications Services. Telecommunications Services means the reception, distribution or transmission of video, audio, data, telephony, all related vertical services, and any other similar services now existing or that may be developed in the future. Declarant may expand this definition in any Supplemental Declaration.

1.1.79 "**Tricon Affiliate**" means any Person that satisfies both of the following: (i) directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, Tricon Residential Inc. and (ii) owns any portion of the Property. "Control" as used herein is defined as possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

1.1.80 **Unit.** Unit means a separate interest in space as defined in California Civil Code Section 4125. Each Unit is a separate freehold estate, as separately shown, numbered and designated in the applicable Condominium Plan. The boundaries of each Unit are approximately shown in the Condominium Plans.

(a) Each Unit consists of all of the land, air and Improvements within the boundaries shown on the Condominium Plan for such Unit, including buildings, porches, yards, landscaping, and utility installations (subject to easements of record). The vertical and horizontal boundaries of each Unit shall be as described in the applicable Condominium Plan. However, in interpreting deeds, declarations, and plans, the following shall apply in the case of Improvements constructed or reconstructed at Unit boundaries in accordance with the Condominium Plans or the original plans for the Unit:

(i) where a Party Wall is coterminous with a Unit boundary described in the Condominium Plans, then the lateral boundaries of the Units separated by such Party Wall shall be deemed to extend to the center of the Party Wall as constructed; and

(ii) if the perimeter wall of a Residence is coterminous with a Unit boundary as described in the Condominium Plans, then such wall is not a Party Wall. The lateral boundaries of the Unit on which the Residence is constructed shall be deemed to extend through such perimeter wall to its exterior-facing surface. In such case, the adjoining Unit shall be deemed to extend up to but not include the exterior-facing surface of such Residence perimeter wall, and the Owner of the adjoining Unit shall have no ownership interest in such Residence perimeter wall.

(iii) The foregoing shall apply to Improvements constructed or reconstructed in substantial accordance with the original plans for the Unit (if available), and it shall apply notwithstanding (a) any description expressed in the deed, the Condominium Plans or the Declaration, (b) the settling or lateral movement of Improvements, or (c) variances between the Condominium Plans or the deed and the actual location of the Improvement.

1.1.81 **VA.** VA means the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to the VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

1.1.82 **VA Requirements.** VA Requirements means Chapter 16 of VA Pamphlet 26-7 and the regulations at 38 Code of Federal Regulations Sections 36.4360 through 36.4367.

1.1.83 **Water Quality Management Plan.** Water Quality Management Plan means the Water Quality Management Plan for the Community, dated January 2007 and as revised in October 2014, July 2022 and December 2022, which was approved by the County that includes

details of the structural and nonstructural “best management practices” or “BMPs” for the prevention and control of stormwater runoff and pollutants into public storm drains.

1.2 Interpretation.

1.2.1 **General Rules.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for subdividing, maintaining, improving and selling the Community. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise. Any reference in this Declaration to time of performance of obligations or to elapsed time means consecutive calendar days, months or years, as applicable, unless otherwise expressly provided.

1.2.2 **Articles, Sections and Exhibits.** The Article and Section headings are inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. *Exhibits C* through *E* attached to this Declaration are incorporated in this Declaration by this reference. The Articles and the Bylaws that are attached as *Exhibits A* and *B* are attached for informational purposes only. Either may be amended from time to time without having to amend this Declaration. In such event, the amended version shall supersede the version attached hereto. The locations and dimensions of any Improvements shown on the Exhibits attached hereto are approximate only and the as-built location and dimension of any such Improvements shall control.

1.2.3 **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and the Articles, Bylaws, Rules and Regulations, or a Condominium Plan, then the provisions of this Declaration shall prevail; however, the conflicting documents shall be construed to be consistent with the Declaration to the extent possible.

1.2.4 **Supplemental Declarations.** Declarant may Record one (1) or more Supplemental Declarations, which may (a) supplement this Declaration with such additional covenants, conditions, restrictions, easements and land uses as Declarant may deem appropriate for the real property described therein or affected thereby, and (b) state Declarant’s intent as to covenants, conditions, restrictions, easements and land uses in the real property described therein or affected thereby. The provisions of any Supplemental Declaration may impose such additional, different or more restrictive conditions, covenants, restrictions, land uses and limitations as Declarant may deem advisable, taking into account the particular requirements of the real property described therein or affected thereby. If there is a conflict between any Supplemental Declaration and the Declaration, the Supplemental Declaration shall control concerning the real property described in such Supplemental Declaration. However, additional, different or more restrictive conditions, covenants, restrictions, land uses and limitations included in a Supplemental Declaration shall be construed in a manner consistent with the purposes of the Governing Documents and the character of the Community, and shall be consistent with applicable law and development plans on file with DRE.

1.2.5 **Severability.** The provisions of this Declaration are independent and severable. If for any reason, any provision of this Declaration becomes invalid, partially invalid,

unenforceable, illegal, null and void, or against public policy, or if for any reason, a court of competent jurisdiction determines that any provision of this Declaration is invalid, partially invalid, unenforceable, illegal, null and void, or against public policy, the validity and enforceability of the remaining provisions of this Declaration shall remain in effect to the fullest extent permitted by law.

1.2.6 Statutory and Regulatory References. All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

1.2.7 FHA Requirements. The FHA Requirements are incorporated herein by reference only if there are any FHA-insured Mortgages on Condominiums in the Community. While such FHA-insured Mortgages are in effect, the FHA Requirements shall control and prevail over all other provisions of the Declaration to the extent of any inconsistency between them.

1.2.8 VA Requirements. The VA Requirements are incorporated herein by reference only if there are any VA-guaranteed Mortgages on Condominiums in the Community. While such VA-guaranteed Mortgages are in effect, the VA Requirements shall control and prevail over all other provisions of the Declaration to the extent of any inconsistency between them.

1.3 Land Classifications in The Community.

1.3.1 Units. The Units in the Community are shown on the Condominium Plans.

1.3.2 Association Property. The Association Property in the Community consists of (i) Lots A, B and C and that portion of Lot 1 of Tract No. 32817, shown as Association Property on the 32817 Condominium Plan, (ii) Lots A and B and that portion of Lot 1 of Tract No. 32818, shown as Association Property on the 32818 Condominium Plan, and (iii) that portion of Lot 1 of Tract No. 33743, shown as Association Property on the 33743 Condominium Plan.

1.3.3 Association Maintenance Areas. The Association Maintenance Areas in the Community consists of the front yard areas within the Units, the approximate locations of which are designated on *Exhibit C* attached hereto as may be modified or supplemented in a Supplemental Declaration.

1.3.4 Sideyard Easements. The Sideyard Easements in the Community are depicted on *Exhibit D* attached hereto as may be modified or supplemented in a Supplemental Declaration.

1.3.5 Sideyard Benefitted Units. The Sideyard Benefitted Units in the Community are identified on *Exhibit D* attached hereto as may be modified or supplemented in a Supplemental Declaration.

1.3.6 Sideyard Burdened Units. The Sideyard Burdened Units in the Community are identified on *Exhibit D* attached hereto as may be modified or supplemented in a Supplemental Declaration.

1.3.7 **Condominium Common Area.** The Condominium Common Area in the Community is shown on the Condominium Plans.

1.3.8 **Trash Pickup Locations.** The trash pickup locations in the Community are designated in the Rules and Regulations.

1.4 **Condominium Plans for Diagrammatic Purposes Only.** Each Condominium Plan and the dimensions shown therein is intended to conform to California Civil Code Section 4285, which requires, in part, concerning the land and real property described therein, the inclusion of diagrammatic plans in sufficient detail to identify the Condominium Common Area and each Unit, its relative location and approximate dimensions.

The dimensions shown in the Condominium Plans are not intended to be sufficiently accurate to use for sales, leasing or appraisal purposes, or for computation of usable floor area or the volume of any portion of the Units shown in the Condominium Plans. The diagrammatic plans contained therein intentionally omit information with respect to certain Improvements constructed within the Units.

The actual locations and dimensions of a particular room, Unit, or Condominium Common Area are all dependent on the Improvements as they were actually constructed, and there may be variances due to field conditions and the presence of interior Improvements that are not shown in the Condominium Plans. There may also be variances among Condominiums of the same floor plan.

A CONDOMINIUM PLAN IS NOT A REPRESENTATION OR WARRANTY BY DECLARANT OR ITS CONSULTANTS AS TO THE ACTUAL LOCATIONS OR DIMENSIONS OF THE UNIT, CONDOMINIUM COMMON AREA OR ASSOCIATION PROPERTY SHOWN THEREIN. IN ALL INSTANCES, THE ACTUAL LOCATIONS AND DIMENSIONS OF THE IMPROVEMENTS AS CONSTRUCTED WILL CONTROL OVER LOCATIONS OR DIMENSIONS DISCLOSED IN A CONDOMINIUM PLAN. THE ONLY RELIABLE DETERMINATION OF THE USABLE FLOOR AREA OR VOLUME OF A UNIT, CONDOMINIUM COMMON AREA OR ASSOCIATION PROPERTY IS A DETERMINATION MADE FROM ON-SITE MEASUREMENTS OF THE IMPROVEMENTS AS THEY ARE CONSTRUCTED.

ARTICLE 2 MAINTENANCE COVENANTS AND USE RESTRICTIONS

The Community shall be held, used and enjoyed subject to the following restrictions and subject to the exemptions of Declarant set forth in the Governing Documents.

2.1 Repair and Maintenance by the Owner.

2.1.1 **Maintenance Obligations and Standards.** Each Owner shall maintain the Owner's Unit and all Improvements thereon (except for any Association Maintenance Areas to be maintained by the Association or Improvements that are designated for maintenance by a governmental entity or utility provider in a Recorded map, Recorded document or in a Governing Document) in a clean, sanitary and attractive condition as to avoid the reasonable determination

of a duly authorized official of the County that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to public health, safety, or general welfare, and as directed in the Governing Documents and all applicable Maintenance Guidelines. Each Owner shall immediately notify the Association of any dangerous, defective or other condition which could cause injury to persons or damage to another Unit or Association Property. Owner-maintained Improvements shall include the following:

(a) **Landscaping.** All Owner-maintained landscaping which is visible from a public way shall be properly maintained, evenly cut, evenly edged, free of bare or brown spots, debris and weeds above the level of the lawn. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the walkways or vehicular traffic. Trees shall be pruned so that they do not intrude into neighboring properties and shall be maintained so they do not have droppings or create other nuisances to neighboring properties. All trees shall also be root-pruned to eliminate exposed surface roots and damage to sidewalks, driveways and structures.

(b) **Fire-Life-Safety Systems.** The Residences are equipped with fire sprinkler and fire/smoke detectors. Each Owner shall regularly inspect the fire sprinklers that are in the interior of the Residence, and arrange for regular pressure testing of the fire sprinkler system. Each Owner shall regularly inspect fire/smoke as directed in the Maintenance Guidelines. Keep sources of direct heat away from fire sprinklers and fire detection systems. Owners should report any leaking or malfunctioning fire sprinklers, non-functioning fire/smoke or carbon monoxide detection systems to the service provider designated in the Maintenance Guidelines, or if none is designated, the Owner must contact a suitable servicer immediately. No Owner may modify, disconnect or remove any part of the fire sprinkler or fire/smoke detection in the Residence.

(c) **Residence Exterior Maintenance.** Owners of Units are solely responsible for the maintenance of the exterior and all components of the Residence. Each Owner shall regularly inspect the Improvements on the Unit for wood-destroying pests, and if such pests are found, the Owner shall be responsible for the costs of eradication and future prevention.

2.1.2 Walls and Fences at Unit Boundaries. Walls or fences enclosing a Unit, and which are not designated a Community Wall in a Supplemental Declaration, are to be maintained by the Owner of the enclosed Unit. No Owner may modify or remove any portions of the fence or wall enclosing the Unit, wherever located, without the prior written consent of the Design Review Committee.

2.1.3 Shared Walkways. Certain Units in the Community share a common walkway (“*Shared Walkway*”). A typical depiction of the Shared Walkways in the Community is depicted on *Exhibit E* attached hereto. The cost of reasonable maintenance and repair of a Shared Walkway shall be shared equally by the Owners of the Units sharing the Shared Walkway; provided, however, that an Owner who by his negligent or willful acts causes a Shared Walkway to require maintenance or repair shall bear the whole cost of such maintenance or repair. The right of any Owner to contribution from any other Owner under this Section 2.1 is appurtenant to each Owner’s Unit and passes to such Owner’s successors, assigns and grantees.

2.1.4 **Pest Eradication.** Each Owner shall regularly inspect the Improvements on the Unit for wood-destroying pests, and if such pests are found, the Owner shall be responsible for the costs of eradication and future prevention.

2.1.5 **Sewer Lateral.** Each Owner whose Unit utilizes a sewer system lateral is responsible for the maintenance and repair of the portion of the lateral lying in the boundaries of the Unit.

2.2 **Party Walls.** To the extent not inconsistent with the provisions of this Article 2, California Civil Code Section 841 and the general rules of law regarding Party Walls and liability for contribution and liability for property damage due to negligence or willful acts or omissions shall apply.

2.2.1 **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners of the Condominium separated by such Party Wall. However, each Owner shall be solely responsible for repainting the side of any Party Wall facing the Owner's Condominium.

2.2.2 **Destruction by Fire or Other Casualty.** Unless covered by a blanket insurance policy maintained by the Association under Section 8.1, if a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Condominium is affected thereby may restore it, and the Owner of the other Condominium affected thereby shall contribute equally to the cost of restoration thereof, without prejudice. However, such an Owner may call for a larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions.

2.2.3 **Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligence or willful act causes a Party Wall to be exposed to the elements, to deteriorate, or to require repair or replacement shall bear the whole cost of furnishing the necessary protection against such elements or the necessary repairs or replacement.

2.2.4 **Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Article is appurtenant to the land and passes to such Owner's successors in title.

2.3 **Repair And Maintenance by The Association.**

2.3.1 **Maintenance Obligations and Standards.** The Association shall maintain everything it is obligated to maintain (including without limitation Association Maintenance Areas) in a clean, sanitary and attractive condition, free of trash, debris and graffiti, consistent with high quality residential standards as contemplated in the Declaration, to avoid the reasonable determination of a duly authorized official of the County that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to public health, safety, or general welfare. Unless otherwise notified by a representative of the County that such maintenance shall occur earlier, and except as specified in any Maintenance Guidelines, the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Association Property and Improvements thereon; however, such maintenance shall be reasonably consistent with the level and frequency of maintenance reflected in the current adopted Budget.

(a) **Landscaping, Generally.** The Association shall maintain (i) the front yards of certain Units as may be depicted on Exhibit C to this Declaration or to a Supplemental Declaration, and (ii) the Association Property irrigation systems and maintain the Association Property landscaping in a healthy, flourishing, weed-free condition, and turf (if any) shall be kept evenly cut, evenly edged, free of bare or brown spots, debris, and weeds above the level of the grass at all times in accordance with applicable County landscape maintenance standards. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the walkways. All trees shall also be root-pruned to eliminate exposed surface roots and damage to sidewalks, driveways and structures. Automatic irrigation systems shall be properly maintained and other reasonable and adequate landscape maintenance procedures shall be performed. Landscaping shall be designed with an efficient irrigation system to reduce runoff and overspray and to promote surface infiltration the Storm Water Pollution Prevention Plan. Landscaping shall also be designed and maintained to minimize the use of fertilizers, herbicides and pesticides. The Association is encouraged to use integrated pest management practices (less toxic pest management) as a first step in maintaining landscaping. Chemical pesticides and fertilizers should be employed as a last resort in managing weeds and other pests.

(b) **Maintenance of Accessways in the Community.** The Private Drives and Motor Courts, including sidewalks adjacent to each of the foregoing, and open space areas shall be swept regularly at the frequencies contemplated in the adopted Budget, and they shall be maintained so that they are safe for users. Significant pavement cracks, pavement distress, excessive slab settlement, abrupt vertical variations, and debris on travel ways should be removed or repaired promptly. The traffic control, wayfinding and parking signage in the Private Drives and Motor Courts will be properly maintained by the Association.

(c) **Trash Removal.** The Association shall have trash removed from the Association Property as necessary to maintain the Association Property consistent with applicable Maintenance Guidelines. Association Property trash containers shall be emptied on a regular schedule as contemplated in the adopted Budget. The cost of trash removal is a Common Expense. The foregoing does not apply to the removal of individual Owner's trash as that responsibility remains with the Owner.

(d) **Graffiti Removal.** The Association shall regularly inspect the Association Property for graffiti, and within 48 hours of discovery, shall re-paint or replace the affected surface as necessary, provided the exterior surface of any perimeter walls shall be maintained by the Valley Wide Recreation and Parks District.

(e) **Additional Items.** The Association shall also be responsible for maintaining any Improvements that a majority of the voting power of the Association designates for maintenance by the Association. Such Improvements shall be deemed Association Property and subject to provisions of the Governing Documents that are applicable to the Association Property.

2.3.2 Commencement of Association Maintenance Obligations. The Association's obligation to maintain the Common Property shall commence on the date on which Annual Assessments commence on the Condominiums in the Community. Until the Association



is responsible for maintaining the Common Property, Declarant or the Single Responsible Party shall maintain such Common Property.

2.3.3 Acceptance of Association Property; Exoneration of Security. The Association must accept ownership of and maintenance responsibility for each portion of Association Property and Association Maintenance Areas when title and maintenance responsibility are tendered by Declarant, whether in fee simple, by easement, or otherwise, and the Association shall indicate its acceptance thereof by executing the applicable deed, grantee acceptance and escrow instructions when they are tendered by Declarant.

(a) **Exonerations.** The Association shall concurrently execute and deliver all exonerations of securities related to the Association Property when presented by Declarant, if the bonded obligations are satisfied, and without regard to any other dispute or controversy with Declarant. No Owner shall interfere with the exercise of the foregoing obligations by the Association, or with the rights or obligations of Declarant.

(b) **Pre-Turnover Inspections.** Declarant shall have the right to have a representative present at any pre-turnover inspection conducted by the Association and its Manager, and the Association shall inform Declarant with reasonable prior written notice of the time and date of such inspection, so that Declarant may arrange to have a representative present.

2.3.4 Association Power to Perform Owner Obligations. If an Owner fails to maintain any Improvement that the Owner is obligated to maintain, the Association has the power, but not the duty, to perform the maintenance at the Owner's expense. In an emergency, the Association may perform the maintenance immediately; in all other cases, the Association may perform the maintenance after Notice and Hearing. For purposes hereof, an "emergency" is any situation in which the Association's Manager or the Board reasonably determines that there is an imminent threat of injury to persons or damage to property.

2.3.5 Disputes Regarding Maintenance Obligations. Disputes between Owners or between any Owner and the Association regarding maintenance shall be resolved in accordance with the enforcement process described in Section 12.1.

2.3.6 Damage by Owners. Each Owner is liable to the Association for all damage to the Association Property that is sustained due to the negligence or willful act of the Owner, the Owner's Family, contractors, residents, tenants or invitees, and any other Persons who derive their use of the Association Property from the Owner or from the Owner's Family, contractors, residents, tenants or invitees. The Association may, after Notice and Hearing, levy against the Owner a Special Assessment representing a monetary charge imposed as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Association Property and facilities for which the Owner or the Owner's Family, contractors, residents, tenants or invitees were responsible. The amount of the Special Assessment may include (a) the amount of any deductible payable on the insured portion of the loss (if the Association elects to make a claim under its insurance policy), (b) all costs and expenses actually incurred by the Association to correct damage that is not covered by the Association's insurance or for which no claim has been made, and (c) the amount of the increase in premiums payable by the Association, to the extent the increase is directly caused by damage that was attributed to the

Owner or the Owner's Family, contractors, residents, tenants or invitees. In accordance with California Civil Code Section 5725(a), the Association shall have the power to impose a lien for the foregoing Special Assessment. If a Condominium is jointly owned, the liability of its Owners for damage to Association Property is joint and several, except to the extent that the Association and the joint Owners have otherwise agreed in writing.

2.4 Inspection of The Community. The Board shall require strict compliance with all provisions of this Declaration and shall periodically cause the Design Review Committee to conduct a compliance inspection of the Community to discover and report any violations of the Governing Documents. The Board shall also conduct no less frequently than annually a visual inspection of the Association Property and all Improvements thereon to determine the condition of said Improvements ("**Condition Inspections**"), which shall be conducted in conformance with the applicable Maintenance Guidelines and any Maintenance Manual (such Condition Inspections shall be required more frequently if directed in the Maintenance Guidelines) and performed in a manner reasonably consistent with the inspection standards established for the reserve study to be conducted pursuant to the Bylaws, although nothing in this Section requires the Board to hire consultants to perform Condition Inspections or that a reserve study be prepared in connection with each Condition Inspection. Condition Inspections shall, at a minimum:

2.4.1 Determine whether the Association Property is being maintained adequately in accordance with the standards of maintenance established in Section 2.1.1;

2.4.2 Identify the condition of the Association Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair;

2.4.3 Recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future; and

During the period described in Section 2.5.2 below, Declarant shall be entitled to reasonable prior written notice of the Condition Inspections conducted by the Board, and shall have the right to have its representatives present to observe such Condition Inspections. The Board shall, during its meetings, regularly determine whether the required inspections and maintenance activities set forth in any applicable Maintenance Guidelines or Maintenance Manual have been followed and, if not followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Association Property. The Board shall keep a record of such determinations in the Board's minutes. The Board shall keep Declarant fully informed of the Board's activities under this Section 2.4. The Board shall employ, consistent with reasonable cost management, such experts, contractors and consultants as are necessary to perform the inspections and make the reports required by this Section.

2.5 Reporting Requirements. The Board of the Association shall prepare for and distribute to the Owners a report of the results of the inspection required by this Section. The Board shall also furnish a copy of the same report to Declarant within the time set for furnishing the Budget to the Owners.

2.5.1 Contents of Report. The report must include at least the following:

- (a) A description of the condition of the Association Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) A description of all maintenance, repair and replacement planned for the ensuing Fiscal Year and included in the Budget;
- (c) If any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) A summary of all reports of inspections performed by any expert, contractor or consultant employed by the Association to perform inspections since the Board's last Condition Inspection report;
- (e) A report of the status of compliance with the maintenance, replacement and repair needs identified in the Condition Inspection report for preceding years and identified in any applicable Maintenance Guidelines; and
- (f) Such other matters as the Board considers appropriate.

2.5.2 Delivery to Declarant. Until the later of the date which is ten (10) years after the date of the last Close of Escrow in the Community, or 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 Right to Repair Law (including tolling periods), the Board shall also furnish to Declarant (A) the report of each Condition Inspection performed for the Board, whenever such Condition Inspection is performed and for whatever portion of the Association Property that is inspected, within thirty (30) days after the completion of such Condition Inspection, and (B) the most recent Condition Inspection report prepared for any portion of the Association Property, within ten (10) days after the Association's receipt of a written request therefor from Declarant.

2.6 Stormwater Pollutant Control. The Community is subject to all federal, state and local requirements of the National Pollutant Discharge Elimination System, adopted in accordance with the Federal Clean Water Act. Under California law and regulation, developers are required to file a Storm Water Pollution Prevention Plan with the Regional Water Quality Control Board that sets forth BMPs to mitigate or eliminate pollutants in storm water discharges from the Community both during and after construction of the Residences. In addition, the County may impose its own construction storm water management requirements, policies and guidelines on the Community. BMPs must be followed by the Association in the Association Property and by Owners on their Condominiums. The BMPs are applicable and enforceable in addition to any local ordinances established by the County and any Maintenance Guidelines imposed by the Declarant or Association relating to discharge of non-storm water into storm drains. The cost of the Association's portion of such maintenance, if any, shall be treated as a Common Expense.

2.7 Water Conservation Measures. The Governing Documents impose maintenance and irrigation requirements and appearance standards for the landscaping in the Community. All such requirements and standards shall be interpreted and enforced by Owners and the Association only in accordance with governmental water conservation measures then in effect, whether they

are imposed by court decision, or by the state, the County or the water district, and whether they are in the form of executive order, statute, regulation or district water conservation ordinance. Water conservation measures may be temporary or permanent, and they may include, among other things, limits on watering hours and duration, outright prohibition of landscape watering, irrigation system design requirements, restrictions on certain plant species, and restrictions on the filling or refilling of swimming pools and spas. In the event the Community is subjected to multiple water conservation measures imposed by any or all of the foregoing governmental entities, the most restrictive shall control over the Governing Documents and over any other less-restrictive measures while it is in effect.

2.8 Single-Family Dwelling. Subject to applicable laws governing Accessory Dwelling Units or Junior Accessory Dwelling Units as defined in Sections 65852.2 and 65852.22 of the California Government Code, respectively, and subject to Sections 2.10 and 2.12 below, the Unit shall be used as a residential dwelling for a single Family and for no other purpose.

2.9 Prohibition on Leasing Restriction. All leases of Condominiums shall be subject to terms of the Governing Documents. The Governing Documents shall not restrict or adversely impact the right or ability of Declarant, a Tricon Affiliate and/or an SFR Owner to lease Condominiums, conduct leasing related activities and/or otherwise operate residential rentals within the Community. The Governing Documents must be uniformly applied and enforced within the Property to and against all Occupants (including, without limitation, Owners and Lessees and their respective Invitees). In the event any term or provision of the Governing Documents or dedicatory instrument conflicts with any term or provision in this Declaration, the term and provision in this Declaration shall control. Notwithstanding the foregoing, any term or provision in this Declaration regarding or impacting the leasing or rental of Condominiums and the Improvements thereon for residential purposes may not be amended or modified without the prior written consent of Declarant and each Tricon Affiliate and each SFR Owner.

2.10 Further Subdivision. Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide the Owner's Condominiums in any manner, including dividing such Owner's Condominiums into time-share estates or time-share uses. This provision does not limit the right of an Owner to rent or lease the Condominiums pursuant to Section 2.11 below.

2.11 Resale. Nothing in this Declaration shall be deemed to prevent an Owner from transferring or selling the Condominium, either to a single Person, or to more than one (1) Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property.

2.12 Business and Commercial Activities. Nothing contained herein shall be deemed to restrict operation of a rental office and associated facilities by an SFR Owner or Declarant.

2.12.1 Generally. No Owner or other occupant of the Community may undertake any activity in any Condominium nor use any portion of the Association Property, for any non-residential business, commercial or Non-Residential Purposes (as defined below), nor for any other purpose that is inconsistent with the Governing Documents. Such purposes include manufacturing, storage, vending, auctions, vehicle or equipment repair, entering into any lease or rental agreement or other occupancy agreement under which the Unit would be occupied by

numbers of persons in excess of the maximum occupancy permitted under applicable law, and transient occupancy of the Unit (such as hotel, inn, bed & breakfast, vacation rental, time-share or similar temporary lodging). Any lease or rental agreement or other occupancy agreement for a term of fewer than thirty (30) days, and any lease or rental agreement or other occupancy agreement pursuant to which the lessor/Owner provides any services normally associated with transient occupancy, shall be deemed to be for transient purposes and prohibited under this Declaration. All of the foregoing activities are prohibited whether they are engaged in full-time or part-time, whether they are for-profit or non-profit, and whether they are licensed or unlicensed.

2.12.2 **Exceptions.** This Section shall not be interpreted to prohibit any of the following:

(a) The hiring of employees or contractors to provide maintenance, construction or repair services that are consistent with the Governing Documents;

(b) Rental or leasing of a Unit to Declarant for use as a sales office, model homes or parking area for any period of time;

(c) Exercise by Declarant of any rights reserved to it under Article 15;

(d) The provision of in-home health care or assisted-living services to any resident of the Community;

(e) The provision of family home child care services as defined in California Health and Safety Code Section 1597.40, *et seq.*, so long as such services comply with all applicable state and local laws, including licensing, inspection and zoning requirements. Provided, however, that the Association has the power to limit or prohibit use of parks and other common amenities in the Association Property by clientele of the business;

(f) Small home-based service businesses (each, a “*Non-Residential Use*”) that comply with all of the following (which include limitations and restrictions pursuant to the FHA Requirements):

(i) The total floor area used in any particular Condominium for Non-Residential Uses shall not exceed twenty-five percent (25%) of the Condominium’s total floor area;

(ii) The aggregate floor area used for Non-Residential Uses among all the Condominiums in the Community shall not exceed twenty-five percent (25%) of the total floor area of all Condominiums in the Community; and

(iii) The Non-Residential Use shall be ancillary and “subordinate” (as used in the FHA Requirements) to the Owner’s use of the Condominium for the residential purposes described in this Declaration;

(iv) The Non-Residential Use shall be of a nature that is consistent with or “homogenous” (as used in the FHA Requirements) with residential use, meaning

it does not create a nuisance to, or impose adverse conditions on, the other residents of the Community, and it is consistent with the residential nature of the Community;

(v) No unoccupied Unit may be used solely for Non-Residential Uses; in all events, the operator of any Non-Residential Use in a particular Unit must live in the Unit on a permanent, full-time basis;

(vi) When conducted in the Community, Non-Residential Use activities take place solely inside the Unit;

(vii) Visits by clientele or suppliers are limited to regular business hours and clientele and suppliers park their vehicles only in the driveway or garage of the Condominium;

(viii) The Non-Residential Use complies with all laws, regulations and ordinances applicable to the Community, including zoning, health and licensing requirements;

(ix) The Non-Residential Use otherwise complies with the Declaration;

(x) The operator of the Non-Residential Use posts no business-related signage anywhere in the Community;

(xi) Other than visits by clientele or suppliers, there is no visible evidence in the Community of the Non-Residential Use;

(xii) The Non-Residential Use does not generate noise or odors that are apparent outside the Unit; and

(xiii) The Non-Residential Use does not increase the Association's liability or casualty insurance obligation or premium.

(g) Other activities that have been determined by Local Government Agencies to be consistent with the single-family residential uses in the Community, including, for example, residential care facilities that are operated in accordance with California Health and Safety Code Section 1566.5.

2.13 **Nuisances.** Noxious or offensive activities are prohibited in the Community and on any public street abutting or visible from the Community. The Board is entitled to determine if any device, noise, odor, or activity constitutes a nuisance.

2.13.1 **Nuisance Devices.** Nuisance devices may not be kept or operated in the Community or on any public street abutting the Community, or exposed to the view of other Condominiums or Association Property. Nuisance devices include the following:

(a) All horns, whistles, bells or other sound devices (except security devices used exclusively to protect the security of a Condominium or a vehicle and its contents);

(b) Noisy or smoky vehicles, power equipment (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance), and Restricted Vehicles (defined below);

(c) Devices that create or emit loud noises or noxious odors;

(d) Construction or demolition waste containers (except as permitted in writing by the Committee);

(e) Devices that unreasonably interfere with television or radio reception to a Condominium;

(f) Plants or seeds infected with noxious insects or plant diseases; or

(g) The presence of any other thing in the Community which may (1) increase the rate of insurance in the Community, (2) result in cancellation of the insurance, (3) obstruct or interfere with the rights of other Owners or the Association, (4) violate any law or provisions of the Governing Documents, or (5) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.13.2 Nuisance Activities. Nuisance activities may not be undertaken in the Community or on any public street abutting the Community, or exposed to the view of other Condominiums or Association Property without the Board's prior written approval. Nuisance activities include the following:

(a) Subject to Section 2.19.2(b), hanging, drying or airing clothing, fabrics or unsightly articles in any place that is visible from other Condominiums, Association Property or public streets;

(b) The creation of unreasonable levels of noise from parties, recorded music, radios, television or related devices, or live music performance;

(c) The creation of unreasonable levels of noise from a barking dog or other animal kept in the Community (for example, chronic daily nuisance barking by a dog over extended periods of time);

(d) Repair or maintenance of vehicles or mechanical equipment, except in a closed garage screened from view by other Condominiums or Association Property;

(e) Outdoor fires, except in barbecue grills and fire pits designed and used in such a manner that they do not create a fire hazard; or

(f) Outdoor storage of bulk materials or waste materials except in temporary storage areas designated by the Committee.

(g) Any activity which may (1) increase the rate of insurance in the Community, (2) result in cancellation of the insurance, (3) obstruct or interfere with the rights of

other Owners, (4) violate any law or provisions of the Governing Documents, or (5) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.14 **Signs.** Subject to California Civil Code Sections 712, 713 and 4710, and any applicable Design Guidelines, no sign, advertising device or other display of any kind shall be displayed in the Community or on any public street in or abutting the Community except for the following signs:

2.14.1 **Traffic and Parking Control.** Entry monuments, Community identification signs, and traffic or parking control signs maintained by the Association;

2.14.2 **Addressing.** For each Condominium, one (1) nameplate or address identification sign which complies with Design Review Committee rules;

2.14.3 **Security.** For each Condominium, one (1) sign advising of the existence of security services protecting a Condominium which complies with Design Review Committee rules;

2.14.4 **For Sale or Lease Signs.** For each Condominium, one (1) sign advertising the Condominium for sale or lease that complies with the following requirements:

(a) the sign has reasonable design and dimensions (which shall not exceed eighteen (18) inches by thirty (30) inches in size), provided the sign is promptly removed at the close of the resale escrow or the lease, or upon the Owner's withdrawal of the Condominium from the resale or lease market; and

(b) the sign is of a color, style and location authorized by the Design Review Committee.

The Association may adopt in its Rules and Regulations different or additional restrictions on the design and dimensions of for sale and for lease signs, for consistency with the existing practice of the local real estate board, if any. In the event of a conflict with the foregoing, the Rules and Regulations shall prevail without having to amend this Declaration.

2.14.5 **Certain Noncommercial Signs.** For each Condominium, a noncommercial sign, poster, flag or banner must comply with the following requirements:

(a) a noncommercial sign or poster must not be more than nine (9) square feet in size and a noncommercial flag or banner must not be more than fifteen (15) square feet in size; and

(b) a noncommercial sign, poster, flag or banner may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.

2.14.6 **Other Authorized Signs.** Other signs or displays authorized by the Design Review Committee, and which comply with applicable Conditions of Approval.

2.15 **Parking and Vehicular Restrictions.**

2.15.1 **Definitions.** The following definitions shall apply to parking and vehicular restrictions set forth in this Declaration:

2.15.2 **Authorized Vehicle.** An "Authorized Vehicle" is an automobile, a passenger van designed to accommodate ten (10) or fewer people, a motorcycle, or a pickup truck having a manufacturer's rating or payload capacity of one (1) ton or less. The Association has the power to identify additional vehicles as Authorized Vehicles in the Rules and Regulations in order to adapt this restriction to other types of vehicles that are not listed above.

2.15.3 **Restricted Vehicles.** The following vehicles are "Restricted Vehicles:" (a) large commercial-type vehicles (for example, stake bed trucks, tank trucks, dump trucks, step vans, and concrete trucks), (b) buses, limousines or vans designed to accommodate more than ten (10) people, (c) inoperable vehicles or parts of vehicles, (d) aircraft, (e) boats, jet skis and other water craft, (f) trailers (for example, trailers designed for horses, boats, motorcycles or other equipment or materials), (g) motor homes and recreational vehicles (for example, fifth-wheels, folding camping trailers, travel trailers, but not including van conversions and truck campers), (h) any vehicle or vehicular equipment deemed a nuisance by the Association, (i) any other vehicle that violates a County ordinance, and (j) any other vehicle that is not classified as an Authorized Vehicle. If a vehicle qualifies as both an Authorized Vehicle and a Restricted Vehicle, then the vehicle is presumed to be a Restricted Vehicle, unless the vehicle is expressly authorized in writing by the Association. The Association has the power to identify additional vehicles as Restricted Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles that are not listed above.

2.15.4 **Parking Management Plan.**

(a) **Restricted Vehicles.** No Restricted Vehicle may be parked, stored or kept in the Community except for periods of two (2) hours or less in any twenty-four (24) hour period during loading, unloading, or emergency repairs. However, an Owner may park a Restricted Vehicle in the garage as long as the garage is kept closed and the presence of the Restricted Vehicle does not prevent Owner's other Authorized Vehicles from being parked in the garage at the same time.

(b) **Garage Parking.** Each Owner shall at all times ensure that the garage accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant. Subject to applicable laws governing Accessory Dwelling Units or Junior Accessory Dwelling Units as defined in Sections 65852.2 and 65852.22 of the California Government Code, respectively, the garages shall be used for parking of vehicles and storage of personal property only, and not for any dwelling, commercial, recreational, or other purpose, regardless of how many vehicles are owned by the residents. Garage doors must be kept closed except as necessary for entry or exit of vehicles or Persons.

(c) **Parking in Adjacent Residential Development.** Owners shall not be permitted to park any vehicles in the Adjacent Residential Development (as defined in Sections 1.1.52 and 3.5 of this Declaration).

(d) **Motor Courts/Fire Lanes.** By acceptance of a deed to a Condominium, each Owner understands and acknowledges that the Motor Courts and fire lanes are to be used for access to and from the Residence only. There is no parking in any Motor Court except in striped guest parking stalls (if any). No Owner shall unreasonably interfere with use of the Motor Court by other Owners, their Families, contractors, tenants or invitees. For purposes of this Declaration, “unreasonable interference” includes, without limitation, parking or standing vehicles in the roadway of the Motor Court, on or along driveway aprons, or along a curb, storage of property or trash in the Motor Court (provided that a vehicle may be parked in the Motor Court as reasonably necessary for loading and unloading of passengers or property, or as necessary for emergency repairs, and further provided that the vehicle is promptly moved when necessary to permit the vehicles of other residents, or their Families, contractors, tenants or invitees, to safely pass).

(e) **Guest Parking.** Unassigned parking spaces (collectively, “**Parking Spaces**”) in Private Streets are for temporary short-term use by residents and business or social guests of residents only. Parking Spaces shall not be used for long-term parking or for the permanent storage of any vehicle (for example, vehicles that cannot be parked in garages) or storage of other personal property. In no event may Restricted Vehicles be parked in Parking Spaces or anywhere else in the Private Streets, except as permitted by the Rules and Regulations. The Board may, but is not required to, impose additional restrictions on Parking Spaces, and assign, designate or re-designate the use of some or all of the Parking Spaces.

2.15.5 Use of Vehicles as Temporary or Permanent Dwelling. No automobile, trailer, mobile home, camper, motor home, recreational vehicle or other vehicle may be used as a dwelling in any portion of the Community, either temporarily or permanently.

2.15.6 Repair, Maintenance and Restoration. No Person may repair, maintain or restore any vehicle in the Community, unless the work is conducted in the garage with the garage door closed if proper venting can be provided for safety purposes. However, no Person may carry on in any portion of the Community any vehicle repair, maintenance or restoration business.

2.15.7 Enforcement. The Board has the right and power to enforce all parking and vehicle use regulations applicable to the Community, including the levying of fines, citing, and removal of violating vehicles from the Private Streets and other areas of the Community in accordance with California Vehicle Code Section 22658 or other applicable laws; provided, however, that upon request of the County, the Board shall take all actions necessary to apply California Vehicle Code Sections 21107.5, 21107.6, 21107.7 and 21107.8 to the Community. The Association may contract with a towing company to remove vehicles that violate the no-parking restrictions and may provide all Owners with a telephone number to report violations. First time violators will receive a written warning, followed by towing in the event of a repeat violation. However, in the event of an emergency or a situation in which the violating vehicle’s position prevents other vehicles from safely passing, the violating vehicle may be towed without a prior warning. The owner of such towed vehicle shall be responsible for all costs incurred to remedy the violation, including, but not limited to, towing costs, citations and legal fees. The County may, but is not required to, enforce such restrictions, rules and regulations, in addition to applicable laws and ordinances.

2.15.8 Regulation and Restriction by Board. The Board has the power to: (a) establish additional rules and regulations concerning parking in the Association Property, including designating "parking," "guest parking," and "no parking" areas, (b) prohibit any vehicle parking, operation, repair, maintenance or restoration activity in the Community if it determines in its sole discretion that the activity is a nuisance, and (c) promulgate rules and regulations concerning vehicles and parking in the Community as it deems necessary and desirable.

2.16 Animal Regulations.

2.16.1 Restrictions on Numbers and Types of Pet Animals. No commercial or farm livestock, including poultry, may be kept in the Community. However, up to two (2) pet dogs or two (2) pet cats, or one (1) pet dog and one (1) pet cat may be kept in each Unit, subject to applicable law, the Governing Documents, and such rules and regulations as may be adopted by the Board, including weight and size limitations. In addition to pet dogs and pet cats, but subject to local ordinances and such Rules and Regulations as may be adopted by the Board, residents may keep in the Condominium reasonable numbers of small household pets that live in containers or cages, including fish, rodents and birds, so long as there is no external evidence of their presence in the Community. Notwithstanding the foregoing, no person may bring or keep in the Community any dog that satisfies the definition of "vicious dog" under the Potentially Dangerous and Vicious Dogs Law at California Food and Agriculture Code Section 31601, *et seq.*, nor any animal that is determined by the Board to be a nuisance to other residents in the Community. The Board has the power and discretion to determine whether the types or numbers of any animals kept in a Condominium are a nuisance, and the Board shall have the power to abate the nuisance through any legal procedure that is available to the Association. The Board may from time to time, by duly adopted Rule and without having to amend this Declaration, change the numbers of dogs or cats or types of animals that may be kept in the Condominiums (subject at all times to limits set by applicable law), and in such event, the duly adopted Rule shall control over the limits stated in this Section 2.16.1.

2.16.2 Reasonable Accommodations for Service Animals. Also notwithstanding the limitations on numbers and types of animals in Section 2.16.1, the Board shall, without having to amend Section 2.16.1, make reasonable accommodations allowing residents with legally recognized disabilities to keep service animals in their homes on receipt of reasonable evidence: (a) that a resident of the Unit has a legally recognized disability; (b) that the service animal is properly trained to provide a necessary service for the disabled resident, and (c) showing that the animal meets the criteria for service animals set forth in state and federal law and regulation. Qualified service animals shall not be counted as pet animals for purposes of the numeric limits in Section 2.16.1, nor shall any limitations on the types of animals set forth in Section 2.16.1 apply to a qualified service animal. Qualified service animals permitted under this Section 2.16.2 remain subject to Sections 2.16.3 and 2.16.4 and the provisions of Sections 2.13 and 2.16.1, concerning the Association's rights and powers to abate nuisances.

2.16.3 Animal Keeping Areas. Residents are advised to choose pets that can be kept indoors at all times without disturbing neighbors. Subject to restriction by the Board in accordance with applicable law, this Section, and subject to the Association's right to abate nuisances under Section 2.13 above, all animals belonging to an Owner, or to a resident member of an Owner's Family, or brought into the Community by contractors, tenants, guests, employees,

or invitees, must at all times be kept under the control of a Person capable of controlling the animal either on a leash or other appropriate restraint or in a carrier, except when inside the Unit. No animal may be left unattended in any part of the Association Property or in any patio or yard for any period of time, regardless of whether the animal is restrained or in a cage or container. Cages, containers, bedding, litter boxes, food containers and bowls must be kept inside the Condominium or in the fenced area of the patio or yard at all times.

2.16.4 Owner Responsibility. The Owner of the Condominium shall be solely responsible for ensuring that there is no external evidence of the presence of any animals kept by the Owner or by the other residents of the Condominium (including unreasonable noise or noticeable odor). Furthermore, each Owner shall be absolutely liable to each and all other Owners, their Families, tenants, residents and guests for damages or injuries caused by any animals brought or kept in the Community by an Owner, by members of the Owner's Family, or by the Owner's guests, tenants or invitees. Each Owner shall immediately remove any excrement or clean other unsanitary conditions caused by such Owner's animals on any portion of the Community.

2.17 Antenna and Satellite Dish Restrictions. No Person may install in the Community any antenna or over-the-air receiving device except for an "Authorized Antenna."

2.17.1 Definition of Authorized Antenna. An Authorized Antenna is (a) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one (1) meter or less in diameter, (b) an antenna designed to receive video programming service, including multi-channel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one (1) meter or less in diameter or diagonal measurement, (c) an antenna designed to receive television broadcast signals, or (d) an antenna used to receive and transmit fixed wireless signals. The foregoing definition is not intended to prohibit cordless or wireless telephones, PDAs, computers, wireless home data networking equipment or other portable wireless data or telephony devices that do not otherwise constitute a nuisance device under the Governing Documents.

2.17.2 Mounting on Mast. An Authorized Antenna may be mounted on a mast to reach the height needed to receive an acceptable quality signal, subject to Local Governmental Agency permitting requirements for safety purposes. No mast shall be installed in such a way that it overhangs patio wall/fence or the balcony railing, or any portion of the Association Property outside the Unit, or poses a threat of damage to property or injury to persons.

2.17.3 Preferred Installation Locations and Restrictions on Installation. Rooftops or fascia boards at the rear of the Unit are the preferred installation locations for Authorized Antennae, subject to applicable restrictions and prohibitions in this Declaration.

2.17.4 Reasonable Restrictions Applicable to all Condominiums. The Committee may adopt reasonable restrictions on installation and use of an Authorized Antenna as part of its Design Guidelines in order to minimize visibility of the Authorized Antenna from other Condominiums. Such restrictions may designate one (1) or more additional preferred installation locations, or require camouflage such as paint (subject to the antenna manufacturer's recommendations) or screening vegetation or other Improvements. However, no restriction imposed by the Committee may (a) unreasonably delay or prevent the installation, maintenance or

use of an Authorized Antenna, (b) unreasonably increase the cost of the installation, maintenance or use of an Authorized Antenna, or (c) preclude acceptable quality reception.

2.17.5 No Obligation to Permit Use of Alternative Locations. The Association is under no obligation to permit any Person to install or relocate any Authorized Antenna or any other device to any area outside the preferred installation location for any reason, including a particular Owner's inability to receive a signal from the preferred installation location.

2.17.6 Prohibitions on Installation. No Authorized Antenna or any other device may be installed in the Association Property. The Committee may prohibit the installation of an Authorized Antenna in a particular location (including a preferred installation location) if, in the Committee's opinion, the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of the Owners or any other Person, or for any other safety-related reason established by the Committee. The Committee may also prohibit an Owner from installing an Authorized Antenna on any real property which such Owner does not own or is not entitled to exclusively use or control under the Governing Documents. The Committee also has the power to prohibit or restrict the installation of any antenna or other over-the-air receiving device that does not meet the definition of an Authorized Antenna as set forth above.

2.17.7 Review after Installation. The Committee may review the location and installation of an Authorized Antenna after it is installed. After its review, the Committee may require that the Authorized Antenna be moved to a preferred location (if one has been designated) for safety reasons or to comply with reasonable restrictions subject to this Section and applicable law.

2.17.8 Restatement of Applicable Law. This Section is intended to be a restatement of the authority granted to the Committee under the law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna or over-the-air receiving device shall be interpreted to amend, modify, restate or interpret this Section.

2.18 Trash. Trash must be stored in closed sanitary containers. Recyclables must be stored in recycling bins in accordance with County requirements. Because collection vehicles will not enter Motor Courts, the trash and recycling containers must be set out for pickup at the locations designated in the Rules and Regulations no earlier than 7:00 a.m. on the regularly scheduled collection day, and removed by 7:00 p.m. on the same day. At all other times, Owners must store closed containers in the garage or in a side or rear yard screened from view and out of sight of other Condominiums and Association Property, until scheduled collection times. The Board has the power to make additional Rules and Regulations concerning the disposal of trash and recyclables, consistent with County ordinances. Notwithstanding anything to the contrary in this Declaration, no vehicle may be parked in any designated trash pickup location on a scheduled trash collection day until after the trash has been collected.

2.19 Owner-Installed Improvements.

2.19.1 Outdoors. No Person shall, without the prior written approval of the Design Review Committee obtained in accordance with Article 5 and the Rules and Regulations,

install any permanent outdoor Improvements if the Improvements are visible from other Condominiums, or from the Private Drives, Motor Courts, or other Association Property. Examples of outdoor Improvements that require prior Committee approval include the following:

(a) Modifications to the Residence exteriors including cosmetic or structural changes in the architectural elements;

(b) Roof-mounted equipment, including heating, ventilation and air conditioning equipment, vents or ducts;

(c) Screening structures that are intended to hide roof-mounted Improvements (such Improvements may be hidden from view only by extension of the main structure);

(d) Permanently installed athletic equipment, including freestanding basketball standards, backboards attached to a Residence, soccer goals, hockey goals, skate ramps or other such items. However, portable athletic equipment (such as movable basketball standards, soccer goals, hockey goals and skate ramps) may be used in driveways or in other areas authorized in writing by the Board, but when not in use they must be brought indoors or stored out of the view of other Condominiums or Association Property;

(e) Sunshades, awnings or patio covers, if visible from other Condominiums or Association Property; and

(f) Outdoor audio/video equipment, including speakers and monitors.

2.19.2 Outdoor Furnishings. Outdoor patio or lounge furniture and plants may be kept in patio or yard in accordance with the Design Guidelines. No furniture may be kept on any porch or stoop. The Board may adopt Design Guidelines regulating the type, size, design, color, and quantity of outdoor furnishings that may be open to view by neighborhoods.

(a) **Flags.** Outdoor display of the flag of the United States is permitted pursuant to California Civil Code Section 4705, as long as the flag and flag pole are located solely within, on and over the Owner's Unit.

(b) **Clotheslines and Drying Racks.** Clotheslines and drying racks meeting the definitions in California Civil Code Sections 4753(a) and (b), may be placed in the enclosed yard area. The Association has the power to establish Design Guidelines to minimize the visibility of the clotheslines and drying racks from the Association Property and other Condominiums so long as they do not effectively prohibit or unreasonably restrict the Owner's ability to use the clothesline or drying rack, and do not significantly increase its cost to use.

(c) **Storage Restrictions.** No portion of the Unit that is in view of neighbors shall be used for storage of trash, construction materials, inventory or equipment, including bicycles, surfboards, exercise equipment or athletic equipment.

2.19.3 Safety. Nothing may be done in any Condominium, or in, on or to the Association Property, that may alter or impair (i) the structural integrity (including water seal) of

the Association Property, (ii) the life safety system, including fire sprinklers or their source of water, or (iii) the plumbing, electricity or natural gas facilities serving any other Condominium, except as otherwise expressly provided in this Declaration.

2.19.4 **Indoors.** No Owner or other resident of the Community may apply paint, foil, film, or other reflective material to the glass portion of any window in the Unit. This Section shall not be interpreted to prohibit the installation of blinds, shutters, curtains and similar indoor window coverings. Pending installation of permanent window coverings, Owners may cover windows with white sheets up to 60 days after the Close of Escrow.

2.19.5 **Holiday Decorations.**

(a) **Duration of Display.** Outdoor holiday decorations, or indoor holiday decorations that are visible from outside, shall be displayed for a reasonable period of time prior to the date of the holiday, as determined by the Association in its Rules and Regulations, but they shall be removed no later than fourteen (14) days after the date of the holiday, unless prior written authorization has been granted by the Board to remove them at a later date.

2.19.6 **Yard Landscaping.** Each Owner of a Unit shall complete the installation of landscaping on the rear yard of the Unit in accordance with a plan approved by the Design Review Committee no later than nine (9) months after the Close of Escrow. Each Owner shall obtain approval of landscape plans by the Design Review Committee no later than six (6) months after the Close of Escrow. Each Owner shall obtain all permits necessary and shall comply with all requirements of the County. Decks and gazebos may be constructed on the flat surface portion of the rear yard only, and not in the slope portion of the rear yard, in accordance with all applicable County requirements.

2.19.7 **No Liability.** Neither the Declarant nor the Association shall be liable or responsible for any damage that results from Improvements installed, constructed or modified by or at the direction of an Owner. Owners are advised to consult and use qualified consultants and contractors when installing, constructing or modifying Improvements on the Owner's Condominium.

2.20 **Mechanics' Liens.** No Owner may cause or permit any mechanic's lien to be filed against the Association Property or another Owner's Condominium for labor or materials alleged to have been furnished or delivered to such Owner. Any Owner who permits a mechanics' lien to be so filed shall cause the lien to be discharged no later than five (5) days after receipt of written notice to discharge the lien is received from the Board. If the Owner fails to remove a mechanic's lien after written notice from the Board, the Board may discharge the lien and levy a Special Assessment against the violating Owner's Condominium to recover the cost of discharge.

2.21 **Drainage.** There shall be no interference with or obstruction of the established surface drainage pattern(s) over any Condominium in the Community, unless an adequate alternative provision is made for proper drainage and approved by the Design Review Committee.

2.21.1 **Established Drainage.** Any alteration of the established drainage pattern must at all times comply with all applicable requirements of Local Government Agencies. For the purpose hereof, "Established Drainage" is defined as the drainage which exists at the time of the

first Close of Escrow for the sale of the Condominium by Declarant, or as shown on any plan approved by the Committee. Established Drainage includes drainage from Unit to Unit and to and from property lying outside the Community.

2.21.2 Surface Drainage Improvements; Sub-Drains. The Established Drainage on a Unit may consist of any or all of the following: earthen or concrete drainage swales, concrete channels, catch basins with underground drainage pipelines, roof-mounted gutters or downspouts (collectively, "**Surface Drainage Improvements**"). In addition, one or more drain lines may have been installed beneath the surface of the Unit (each, a "**Sub-Drain**"). Surface Drainage Improvements and Sub-Drains and appurtenant Improvements constructed or installed by Declarant (if any) provide for collection and drainage of surface waters from each Unit and from elsewhere in the Community to proper points of disposal.

2.21.3 Maintenance of Drainage Improvements. Each Owner must maintain, and keep free of debris and obstructions all Surface Drainage Improvements and Sub-Drains located on or under the Unit, except those for which the Association or a public authority or utility are responsible. To ensure adequate drainage within the Community, it is essential that the Surface Drainage Improvements and the Sub-Drains, if any, not be modified, removed or blocked without having first made alternative drainage arrangements. Therefore, no Owner may install, alter, modify, remove or replace any Surface Drainage Improvements or Sub-Drains on or under the Owner's Unit without first making alternative drainage arrangements approved in writing by the Committee and by applicable governmental agencies. Owner-installed irrigation systems must be installed and maintained to prevent excess runoff and accumulation of surface water.

2.21.4 Grading. The grading design in the Community should not be altered to redirect surface water flow toward the Units or onto adjacent property, or to trap water so that it ponds or floods. Grading modifications are subject to law, approval by the Board, and the terms of any Recorded drainage easements.

2.22 Water Supply System. No individual water supply, sewage disposal or water softener system is permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water district having jurisdiction, the County, the Design Review Committee and all other applicable governmental authorities with jurisdiction.

2.23 View Obstructions. Each Owner acknowledges that (a) there are no protected views in the Community, and no Unit is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping (including the growth of landscaping) or other installation of Improvements by Declarant or other Owners may impair the view from any Unit, and each Owner hereby consents to such view impairment.

2.24 Solar Energy Systems. California has a strong public policy in favor of solar heating and solar energy generating systems (each, a "**System**"). California policies and applicable laws, including the Solar Shade Control Act (Public Resources Code Section 25980, *et seq.*) and the Solar Rights Act (Civil Code Section 714, *et seq.*) protect each Owner's right to place and maintain equipment and facilities necessary to operate a residential System, all subject to reasonable restrictions imposed by the Association. Therefore, each Owner may install a solar

energy system (as defined in California Civil Code Section 801.5) to serve the Owner's domestic needs, as long as (a) the design and location of the solar energy system meet the requirements of all applicable governmental ordinances, (b) the design and location receive the prior written approval of the Design Review Committee, and (c) the Owner complies with reasonable restrictions imposed by the Committee pursuant to Article 5. Areas outside the boundaries of the Unit are Association Property owned and controlled by the Association.

2.24.1 Installation. Owners who elect to install a System will be subject to the Declaration, the Maintenance Manual, all applicable City and County ordinances and zoning regulations, the Uniform Building Code and associated law and regulations. Owners must obtain written approval from the Design Review Committee prior to installing a System. In addition, The Association, through its Design Review Committee, has the right under California Civil Code Sections 714 and 714.1, as the same may be amended from time to time, may impose reasonable conditions of approval for the proposed installation of a System, or extension of an existing System.

2.24.2 Impact of Neighboring Properties. California law, including the Solar Shade Control Act, may in some instances restrict an Owner's free and unfettered enjoyment of a Condominium if it conflicts with the solar heating needs of an adjoining Condominium, including the location and height of Owner-installed or -placed trees, landscaping or other Improvements on the Owner's property. However, nothing in the law or the Governing Documents guarantees any Owner the absolute right to operate a System entirely free of interfering shade from pre-existing vegetation and structures on neighboring Condominiums or Association Property, and Declarant makes no such warranty that any System will remain unaffected by shade caused by pre-existing vegetation or other Improvements, or the activities of neighboring Owners or the Association, including the growth of landscaping and the height of Improvements in the Association Property or public property.

2.25 Rights of Disabled. Subject to Article 5, each Owner may modify such Owner's Unit and the route over the Association Property leading to the front door of the Owner's Unit, at the Owner's sole expense to facilitate access to the Unit by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons, in accordance with California Civil Code Section 4760 or any other applicable law.

2.26 Temporary Buildings. No tent, shack, shed, trailer, mobile home, modular building, storage building, shipping or storage container or similar movable building or shelter may be placed on any portion of the Community either temporarily or permanently. This Section is not intended to prohibit Accessory Dwelling Units or Junior Accessory Dwelling Units as defined in Sections 65852.2 and 65852.22 of the California Government Code, respectively, to the extent they are permitted by local ordinance.

2.27 Prohibited Residential Uses. No garage, carport, trailer, camper, motor home, recreational vehicle or other vehicle may be used as a residence in the Community, either temporarily or permanently.

2.28 Association Property. The Association Property may not be altered without the Board's prior written consent.

2.29 Mineral Exploration and Extraction. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted on the Community, nor are oil wells, tanks, tunnels or mineral excavations or shafts permitted upon the surface of any Unit or within five hundred (500) feet of the surface of the Community.

2.30 Post-Tension Concrete Slabs. Concrete slabs for Units and other Improvements constructed in the Community may be reinforced with a grid of steel cable installed in the concrete slab and then tightened to create extremely high tension. This type of slab is commonly known as a "Post-Tension Slab." Cutting into a Post-Tension Slab for any reason (for example, to install a floor safe, to repair or remodel plumbing, etc.) is very hazardous and may result in serious damage to the Unit and other buildings, personal injury, or both. Each Owner shall determine if the floor of their Unit has been constructed with a Post-Tension Slab and, if so agrees: (a) Owner shall not cut into or otherwise tamper with the Post-Tension Slab; (b) Owner will not permit or allow any other Person to cut into or tamper with the Post-Tension Slab so long as Owner owns any interest in the Unit; (c) Owner shall disclose the existence of the Post-Tension Slab to any Person who rents, leases or purchases the Unit from Owner; and (d) Owner shall indemnify and hold Declarant and Declarant's agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees and costs of court) arising from any breach of this covenant by Owner.

ARTICLE 3 DISCLOSURES

This Article discloses information obtained from third-party sources such as consultants, government and public records. No Person should rely on the ongoing accuracy or completeness of the information discussed in this Article (including, without limitation, the tax information and natural hazards information) because many of the matters discussed below are outside the control of Declarant and the Association. Accordingly, Declarant does not make any guarantee as to the accuracy or completeness of the matters disclosed below. Furthermore, Declarant is under no obligation to update or revise any matter disclosed in this Article. This Article is intended to provide Owners with information known or provided to Declarant as of the date this Declaration was Recorded, to be used as a starting point for further independent investigation.

3.1 No Representations or Warranties. No representations or warranties, express or implied, have been given by Declarant, the Association or their agents, in connection with the Community, its physical condition, zoning, compliance with law, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation of the Community as a condominium project, except as expressly provided in this Declaration, as submitted by Declarant to DRE or provided in the standard warranty required by FHA/VA.

3.2 Association Budgets. The initial Association Budget was reviewed by DRE, after preparation by an independent professional. The initial Budget includes information available at the date of preparation. Budgets will change from time to time due to changing maintenance requirements, geographic impacts that are not anticipated when the Budgets were prepared, state and/or local emergencies, quarantines, pandemics or epidemics, the demand by Owners for

different, higher, or enhanced services or standards of maintenance and/or unforeseen or unanticipated circumstances. In addition, actual costs and reserves may vary from the standard costs and reserves reflected in DRE-reviewed Budgets (many of which costs and reserves are derived from regulatory sources); therefore, there is no representation that the initial Budget reflects the actual costs of operating the Association.

3.3 Access Facilities. Vehicular and pedestrian access into the Community may be controlled by entry gates located at the public street entrances into the Community. There may also be controlled access pedestrian gates in the Community. There are no assurances that any entry gates will be installed. As of the date of this Declaration, the entry gates are not anticipated to be staffed. Until the last Close of Escrow occurs in the Community (a) the access gate may be open to the general public, (b) Declarant may change the hours of access gate operation in its sole discretion without notice to accommodate construction and marketing activities, (c) interim access gate staffing may be provided or eliminated, and (d) operation of the access gate may be limited. In addition, because a rental program may be operated within the Community, prospective tenants may at all times be provided access to the Community.

3.4 Security and Privacy Disclaimer. Access gates are not intended to provide security or privacy for persons, personal property or Units in the Community. Neither Declarant nor the Association undertakes to provide security or privacy for the Community or Owners, nor do they make any representations or warranties concerning the security or privacy of the Community or Owners.

3.5 Mutual Benefit Declaration. The Community and residential development to the west and south of the Community ("*Adjacent Residential Development*") are subject to the Mutual Benefit Declaration which: (a) grants certain reciprocal nonexclusive easements to the Association and to the homeowners association or land owner of the Adjacent Residential Development over the Community and the Adjacent Residential Development, as applicable, for pedestrian and vehicular access, ingress and egress, (b) establishes the respective parties' rights of enforcement and cure; and (c) establishes other provisions governing the relationship of the parties.

3.6 Supplemental Real Property Taxes. The County Assessor has the authority to reassess new Residences after the Close of Escrow based on the difference between its appraised value and the Residence's unimproved value for the period after escrow closes. The Assessor will issue a supplemental tax bill to Owners for the difference in the taxes due based upon the reassessment. The Declarant has no control over the valuation, timing or the amount of the supplemental bill resulting from the reassessment. Owner is solely responsible for the payment of the supplemental tax bill.

The following notice is given pursuant to Section 1102.6c of the California Civil Code:

"California property tax law requires the Assessor to revalue real property at the time the ownership of the property changes. Because of this law, you may receive one or two supplemental tax bills, depending on when your loan closes. The supplemental tax bills are not mailed to your lender. If you have arranged for your property tax payments to be paid through an impound

account, the supplemental tax bills will not be paid by your lender. It is your responsibility to pay these supplemental bills directly to the Tax Collector. If you have any question concerning this matter, please call your local Tax Collector's Office."

Neither Declarant nor any of its authorized agents, representatives, employees or sales people has made any representations or warranties regarding supplemental real property taxes.

3.7 Electric Power Lines, Wireless Communications Facilities, and Human Health. Underground and overhead electric transmission and distribution lines and transformers ("**Power Lines**") are located within or in the vicinity of all residential communities, including this Community. The Power Lines within and in the vicinity of the Community produce electric and magnetic fields ("**EMF**"). Antennas and other equipment for wireless telecommunications (for example, cellular phones) may also be located in or in the vicinity of the Community. Like all wireless communications facilities, these facilities produce radio-frequency fields ("**RF**"). Numerous studies concerning the effects of EMF and/or RF on human health have been undertaken over the past several years and some are ongoing. There are studies that have reported a possible relationship between EMF exposure and some health conditions, such as childhood leukemia, miscarriages, and certain neurological disorders, while other studies found no such relationship. Some studies have reported associations between RF exposure and brain cancer, while other studies found no such relationship. Studies are ongoing. Additional information about EMF and RF is available from the following agencies:

3.7.1 the World Health Organization's International EMF Project website at https://www.who.int/health-topics/electromagnetic-fields#tab=tab_1;

3.7.2 the U.S. National Institute of Environmental Health Sciences website at <https://www.niehs.nih.gov/health/topics/agents/emf/index.cfm>;

3.7.3 the CDC website at <https://www.cdc.gov/niosh/topics/emf/>;

3.7.4 The California Public Utilities Commission EMF page at <https://www.cpuc.ca.gov/General.aspx?id=4879>; and

3.7.5 Pacific Gas & Electric at https://www.pge.com/en_US/safety/how-the-system-works/understanding-radio-frequency/understanding-radio-frequency.page;

3.7.6 Southern California Edison website at <https://www.sce.com/wps/portal/home/safety/family/environmental-health>;

3.7.7 San Diego Gas & Electric website at <https://www.sdge.com/more-information/safety/electric-safety/electric-magnetic-fields>.

This list is not meant to be all-inclusive.

3.8 Utility Improvements. There may be above-ground and subterranean utility Improvements such as transformers, lift stations, water or sewer facilities, telecommunications

vaults and other visible Improvements necessary for the delivery of utilities or other services either on or adjacent to each Unit. The placement of such Improvements is dictated by the needs of the applicable utility or service provider, and the presence of such Improvements in the Community is in accordance with easements created prior to or during the development of the Community. Each Unit and portions of the Association Property are subject to one or more such easements for placement of utility Improvements. No Owner may modify, remove or otherwise interfere with utility Improvements on any Unit or other portion of the Community.

3.9 Recreational Areas. The Community includes the Recreational Areas. All persons using the Recreational Areas are required to use caution and to watch their children at all times to prevent injuries. The use of the Recreational Areas may cause noise, night lighting, the errant flight and/or entry of items of play and other disturbances to those Residences in close proximity to the Recreational Areas. Owners living near the Recreational Areas may experience higher than normal pedestrian and vehicular traffic. In addition, the Recreational Areas may be equipped with enhanced lighting for evening activities. Lighting may be visible from Residences within the Community. The Association may, from time to time, promulgate rules for use and operation of the Recreational Areas, including reasonable hours of operation.

3.10 Air Quality. California is subject to Stage I smog alerts. Owners should take advantage of the Air Quality Management District's ("**A.Q.M.D.**") forecasts to plan outdoor activities to avoid peak pollution by checking your television, radio or daily newspapers to find out if unhealthy air quality is expected. For more information, Owners can also call A.Q.M.D. at 1-800-CUT-SMOG (1-800-288-7664) or check their website at www.aqmd.gov. By acceptance of a deed to a Unit, Owners, (for and on such Owners' behalf, and the members of such Owner's family, tenants, lessees, guests and invitees) expressly acknowledge and accept the existing and possible future impacts of smog on Owners and such Owners' family and forever waive any and all causes of actions against the Declarant and their respective directors, officers, employees, agents, representatives and consultants for any damages or injuries which may arise from or relate to any such conditions or risks.

3.11 High Winds. All of California is subject to periods of high winds. Winds speeds and wind magnitude in the Community may exceed that experienced in other areas of the surrounding region. The Community is subject to periods of high magnitude and very gusty standing winds. Owners must ensure that any structures or other Improvements they install on their Units are constructed or designed to withstand high winds. Owners are advised to consult with experienced architects and engineers in the design and specification of any structures or Improvements that you plan to add. Owners are also advised that fine particles of dust and dirt can be picked up and transported throughout the Community by these winds. The accumulation of this wind-borne dust and dirt on exterior and interior areas of Owner's Unit may result in some level of inconvenience to Owners in the Community.

3.12 Open Space Areas; Fire Risk. Because the Community is surrounded by open space areas that are covered in grasses and other vegetation, there is an increased risk of wildfires occurring in the open space during the dry season. The Community is prone to environmental and weather conditions that create a high risk of destructive wildfires. These wildfires are difficult to predict, control and extinguish. In addition, high winds in the Community can carry windborne embers during wildfires, increasing the speed at which destructive wildfires can spread, in and

around the Community. Such wildfires can cause property loss or bodily harm. They may also force evacuation from Units in the Community.

Declarant cannot control the conditions that create and spread these wildfires, and Owners are advised to carefully consider the risks of wildfires that are inherent in California living. Owners of Units adjacent to open space should maintain a fire-resistant, defensible space around their Residence and should advise the City if they observe a need for weed or brush abatement within the open space. All Owners in the Community should become familiar with local and state fire protection agencies' recommendations and information regarding California wildfire dangers and risks. The inherent risks of wildfires in California may have an adverse impact on insurance premiums for homeowner's insurance or homeowner's insurance may not be available at all. Owners should consult an insurance professional for additional information about the costs and availability of insurance for Owner's Units.

3.13 Detention Basins and Other Water Hazards. Water quality basins are located in the Community. While the water quality basins in the Community will be owned by the County, the basins will be maintained by the County and the Valley Wide Recreation and Parks District. All basins are potential water hazards, and may contain standing water at times. During periods of heavy rain, water and debris may accumulate in the detention basins. Owners acknowledge and agree that children and pets must be closely watched to prevent accidental drownings and other such injuries around the Basins. Owners and other residents are advised to keep children and animals away from the detention basins and other water hazards at all times. By acceptance of deeds to their Units, Owners acknowledge that Declarant and the Association are not responsible for the safety of Owner, Owner's family, guests, invitees, tenants, agents, employees or pets.

3.14 Sewer Backflow Prevention Valve. Certain Units in the Community may have been provided with sewer backflow preventers. These devices are provided in Units which have a finish floor elevation that is lower than the nearest upstream manhole rim. These devices are designed to prevent sewage from backing up into a Unit in the event of a blockage in the main sewer line in the street. The clean-out for these backflow preventers is usually in the landscaped area in front of the Unit, but on occasion may be located within the garage floor of these specified homes. If for any reason a sewer line requires snaking or cleaning, the backflow preventer should be disconnected before conducting any such work to prevent the backflow preventer device from being damaged.

3.15 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. 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: <https://www.rivcocob.org/ords/600/655.htm>.

3.16 Watering Restrictions. Drought conditions may cause municipalities and other water service providers to enact voluntary or mandatory cut-backs, prohibitions, or other

restrictions on water usage, including limits on watering hours and duration, outright prohibition of landscape watering, irrigation system design requirements, and restrictions on certain plant species. Water usage related restrictions may also prevent Owners from installing or using water to fill or run a swimming pool, spa, water fountain, or other water feature. These restrictions and drought conditions could also limit the availability of recycled or reclaimed water. Water usage related restrictions may be temporary or permanent and may cause landscaping at an Owner's Unit and in the Community to dry out and die. Dead or dried out landscaping may need to be removed if it becomes a fire hazard.

3.17 Reclaimed Water. In its efforts to conserve water, the local water district ("*Water District*") requires the use of reclaimed water to irrigate front yard areas, parks, school yards, golf courses, greenbelt areas and other large landscaped areas. Reclaimed water is partially treated waste water. It is not treated to be suitable for consumption by humans or domestic animals.

Declarant has installed in parts of the Association Property irrigation equipment that is designated for reclaimed water service. Such equipment is purple in color for ready identification. The Water District may extend reclaimed water service to the Community. There is no fixed date for the commencement of reclaimed water service, but all Persons in the Community should always assume that water originating from purple irrigation equipment is reclaimed, and therefore never suitable for human or domestic animal consumption. There is no way to reliably tell the difference between potable water and reclaimed water without a chemical test. The water delivered to the Residence will at all times be domestic potable water.

As with any water overspray, the repeated spray of reclaimed water used in irrigation may stain or discolor personal property, fences, walls and other Improvements. Neither Declarant, nor the Association nor their officers, directors, employees or agents are liable for any property damage or personal injury caused by reclaimed water. Further information concerning reclaimed water is available at the Water District's headquarters.

3.18 Mold. Molds are simple, microscopic organisms, present virtually everywhere, indoors and outdoors. Mold can be any color, but is usually green, gray, brown or black. Mold requires a food source (such as paper, wood, leaves or dirt), a source of moisture and a suitable temperature (generally 40-100 degrees Fahrenheit) to grow.

Individuals are exposed to molds on a daily basis, and in most instances there are no harmful effects. However, the buildup of molds in the indoor environment may contribute to serious health problems for some individuals. Due to a variety of factors, including the fact that sensitivities to various types of molds and other potential contaminants vary from person to person, there are currently no state or federal standards concerning acceptable levels of exposure to mold. Sources of indoor moisture that may lead to mold problems include, but are not limited to flooding, leaks, seepage, sprinkler spray hitting the Residence, overflow from sinks or sewers, damp basement or crawl space, steam from shower or cooking, humidifiers, wet clothes drying indoors, watering house plants, and clothes dryers exhausting indoors.

Each Owner should take precautions to prevent the growth of mold in the Unit from these and other sources. Preventative measures include, but are not limited to the following: (1) regularly cleaning the Unit; (2) regularly checking for accumulated moisture in corners and

unventilated areas; (3) running fans, dehumidifiers and air conditioners to reduce indoor humidity; (4) stopping the source of any leak or flooding; (5) removing excess water with mops or a wet vacuum; (6) moving wet items to a dry, well-ventilated area; (7) regularly cleaning and disinfecting indoor and outdoor surfaces that may contain mold; (8) having major appliances, such as furnaces, heat pumps, central air conditioners, ventilation systems and furnace-attached humidifiers inspected, cleaned and serviced regularly by a qualified professional; (9) cleaning the refrigerator, air conditioner and dehumidifier drip pans and filters regularly and ensuring that refrigerator and freezer doors seal properly; and (10) avoiding over-watering of landscaping.

It is the Owner's responsibility to monitor the Residence on a continual basis for excessive moisture, water and mold accumulation. For additional information regarding mold, please refer to the following websites: California Department of Public Health - <http://www.cdph.ca.gov>; Centers for Disease Control and Prevention - <http://www.cdc.gov/nceh>; U.S. Environmental Protection Agency - <http://www.epa.gov>; Illinois Department of Public Health - <http://www.idph.state.il.us>; and Washington State Department of Health - <http://www.doh.wa.gov>.

3.19 Natural Hazard Zone Disclosures. According to the Natural Hazard Disclosure Statement dated as of March 8, 2023 and prepared by First American Natural Hazard Disclosures (the "*Natural Hazard Disclosure Statement*"), all or a portion of the Community lies within the mapped boundaries of the following natural hazard zones:

3.19.1 Earthquakes. The Natural Hazard Disclosure Statement does not identify any Earthquake Fault Zones affecting the Community. However, California is subject to a wide range of earthquake activity and has many known earthquake faults as well as yet-undiscovered faults. As earthquake faults are discovered and characterized, the state creates maps defining property affected by the fault as an Earthquake Fault Zone, as defined in California Public Resources Code Section 2621.9. Owners must evaluate the potential for future seismic activity that might seriously damage an Owner's Residence. A major earthquake, which some have predicted will occur in our lifetimes, could cause very serious damage to Residences, even those located even many miles from the epicenter of the earthquake. A more moderate earthquake occurring on a more minor fault, or on an undiscovered fault, could also cause substantial damage.

Declarant makes no representations or warranties as to the degree of earthquake risk within the Community. All Owners should read "The Homeowner's Guide to Earthquake Safety," which is published by the California Seismic Safety Commission and is available from their offices or by free download from their website at <https://ssc.ca.gov/> and consult with the County, other public agencies, and appropriate experts to evaluate the potential risk.

3.19.2 FEMA-Designated Flood Zones. According to the Natural Hazard Disclosure Statement, the Community is located in a FEMA-designated Flood Zone X (an area of minimal flood risk) on maps issued by FEMA. Flood maps are updated periodically, and Declarant makes no representations, guarantees or warranties concerning any future flood zone determinations.

3.19.3 Seismic Hazard Zone. Many portions of California are subject to risks associated with seismic activity. Areas that meet the definition of "Seismic Hazard Zone" in the

Seismic Hazards Mapping Act (California Public Resources Code Section 2690, *et seq.*) are shown on maps that are prepared and released by the California Department of Conservation, Division of Mines and Geology. Such zones may pose an increased risk of damage to property from liquefaction and/or from earthquake-induced landsliding. According to the Natural Hazard Disclosure Statement, the State of California has not yet produced any seismic hazard zone maps for the Community. When such maps are released, they will be available for inspection at the offices of the County. Declarant makes no representations or warranties as to whether the Community is in a Seismic Hazard Zone, or whether seismic activity poses any elevated degree of risk to the Community. Owners are advised to consult with the City, County, other public agencies, and appropriate experts to evaluate the potential risk. For more information concerning seismic activity and risks, read “The Homeowner’s Guide to Earthquake Safety.”

3.19.4 Area of Potential Flooding/ Dam Inundation Zone. According to the Natural Hazard Disclosure Statement, the Community is located within an Area of Potential Flooding (or Dam Inundation Zone) as shown on an official map reviewed, approved and maintained by the State of California Office of Emergency Services in accordance with Section 8589.5 of the California Government Code. Such maps are prepared by local governmental agencies, utilities or other owners of dams to disclose areas affected by potential inundation and flooding that could result from the sudden, partial or total failure of a dam. Dams may fail in a significant earthquake, and flooding of areas in the pathway of the released water could cause damage to property, personal injury and death. Maps are updated periodically, and Declarant makes no representations, guarantees or warranties with respect to any future dam inundation zone determinations affecting the Community. Please contact the City or the state Office of Emergency Services for further information.

3.19.5 City and County-Designated Zone Determinations. California law allows cities and counties to establish policies and criteria stricter than those set by the State respecting, but not limited to, the permitting and development of properties found to be in or affected by the certain natural hazards. This information may be used by the local jurisdiction relative to making decisions regarding new development or additional construction. The agencies and jurisdictions which develop the official maps do not necessarily define or delineate hazards in the same way. A site can be in a hazard zone from one source and not in a hazard zone from another source. Properties that are in a mapped geologic hazard zone may require a geologic study prior to any new or additional construction. According to the Natural Hazard Disclosure Statement, all or portions of the Community lie within a County-designated Wildland Urban Interface area.

3.19.6 Very High Fire Hazard Severity Zone (SB-63). Beginning January 1, 2022, California Senate Bill 63 (SB-63) requires, among other things, that the Director of the Department of Forestry and Fire Protection (“*Director*”) identify areas in California as “Moderate,” “High” and “Very High” Fire Hazard Severity Zones. According to the Natural Hazard Disclosure Statement, the Director has not yet released Fire Hazard Severity Zone (FHSZ) maps for those cities and counties that have fire protection responsibility (“*Local Responsibility Areas*”). Beginning July 1, 2021 California Assembly Bill 38 (AB-38) requires all homes sales in High or Very High Fire Hazard Severity Zones (FHSZ) to be compliant following a Defensible Space Inspection. When an Owner sells property that is located in a high or very high FHSZ, the Owner will need documentation of a compliant Defensible Space Inspection that complies with Section 4291 of the Public Resources Code or local vegetation management ordinances. More

information regarding this requirement can be found at [Fire Hazard Severity Zones \(ca.gov\)](http://www.firehazardseverityzones.ca.gov). When the Director releases the new FHSZ maps required by SB-63, the obligations under AB-38 will apply to the Very High and the High FHSZ in the Local Responsibility Areas. Declarant makes no representations or warranties as to whether the Community is in a FHSZ or whether there is any elevated degree of fire hazard risk to the Community. Owners are advised to consult with the City, County, other public agencies, and appropriate experts to evaluate the potential risk.

California is prone to environmental and weather conditions that create a high risk of destructive wildfires. These wildfires are difficult to predict, control and extinguish. Such wildfires may cause Buyer property loss or bodily harm. They may also force evacuation from the Unit or the Community. As recent wildfires in California have illustrated, wildfires may occur at any time of year, start without warning and spread at a rapid and unpredictable rate, destroying massive amounts of property and injuring or killing humans and animals in their path. Rural, suburban and urban areas have all been impacted by wildfires. In addition to the risks associated with wildfires and related evacuations, looting of evacuated sites and mudslides associated with rain in recently burned areas are all risks that accompany California wildfires. Declarant cannot control the conditions that create and spread these wildfires. The inherent risks of wildfires in California may have an adverse impact on insurance premiums for homeowner's insurance or homeowner's insurance may not be available at all. Owners should consult an insurance professional for additional information about the costs and availability of insurance for the Unit.

3.20 Right to Farm Disclosure. According to the Natural Hazard Disclosure Statement referenced above, the Community is located within one mile of a farm or ranch land. California Civil Code Section 1103.4 requires notice if a property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current county-level GIS "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, and if so, accompanied by the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural

practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

3.21 **Airport Influence Area Notice.** The following notice is included in this Declaration in accordance with California Civil Code Section 4255:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

An "airport influence area" is defined in California Civil Code Section 4255 as an area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

3.22 **Commercial/Industrial Zone Disclosure.** California Code of Civil Procedure Section 731a currently provides that, except in an action to abate a public nuisance brought in the name of the people of the State of California, no Person shall be enjoined or restrained by the injunctive process from the reasonable and necessary operation in any industrial or commercial zone or airport of any use expressly permitted therein, nor shall such use be deemed a nuisance without evidence of the employment of unnecessary and injurious methods of operation, provided any city, city and county, or county shall have established zones or districts under authority of law wherein certain manufacturing or commercial or airport uses are expressly permitted. Accordingly, Declarant discloses that according to the Natural Hazard Disclosure Statement described in Section 3.19, the Community is located within one mile of a property that is zoned by the County to allow commercial or industrial use.

3.23 **Energy Efficiency Standards and Duct Sealing Requirements.** Declarant has been informed that based on climate zone maps issued by the California Energy Commission, the Community is located in a designated climate zone in which properties are subject to duct sealing and testing requirements set forth by the California Energy Commission. According to the California Energy Commission, certain duct sealing requirements apply when any of the following Improvements are replaced on a home: the air handler, the outdoor condensing unit of a split system air conditioner or heat pump, the cooling or heating coil or the furnace heat changer. Please refer to the Natural Hazard Disclosure Report for more information regarding energy efficiency standards and duct sealing requirements applicable to the Residences in the Community.

3.24 **Gas And Hazardous Liquid Transmission Pipeline Notice.** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (“NPMS”) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov/>. To seek further information about possible transmission pipelines near the property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by Zip Code and county on the NPMS Internet Web site. Gas and hazardous liquid pipelines of any size pose a potential risk to life, property and the environment if damaged or punctured. In addition, precise locations of larger gas transmission pipelines are restricted by Federal Homeland Security policies. Additional information relating to other types and sizes of pipelines and other underground utility infrastructures may be available from local pipeline operators such as:

PG&E: <http://www.pge.com/pipelineplanning/>;

Sacramento Municipal Utilities District: <https://www.smud.org/en/residential/education-safety/natural-gas-pipelines/natural-gas-pipeline-map.htm>; and

Southern California Gas: <http://www.socalgas.com/safety/pipeline-maps/>.

Owners may want to contact your local utility provider if they are not listed above.

Owners should also review Owner’s Preliminary Title Report for pipelines right-of-way (easements) and further investigate information about pipelines by contacting the owner or operator responsible for the pipelines, consider what factors, if any, are associated with the property’s proximity to pipelines, and determine whether the information you receive is acceptable before you purchase. No excavation work should be done before contacting the One-Call Center (811).

3.25 **Radon.** Radon is a colorless, odorless radioactive gas that is produced by the natural decay of uranium, which is found in nearly all soils. Because radon is a gas, it can seep from the ground into the air in a house through openings in the ground, and its presence increases the risk of lung cancer. The U.S. Environmental Protection Agency (the “EPA”) and U.S. Geological Survey have produced a map that assigns one to three zone designations based on radon potential to each county. According to the EPA, each zone designation reflects the average short-term radon measurement that can be expected to be measured in a building without the implementation of radon control measures. This map is not meant to be used to determine whether a particular home should be tested for radon, but is used to assist various government agencies and organizations in focusing their radon program resources. Additionally, the California Department of Conservation outlines Radon Zone areas where geologic conditions are likely to produce high, moderate, or low potential indoor radon levels above 4 pCi/L. Those maps are available at:

<https://www.epa.gov/radon/find-information-about-local-radon-zones-and-state-contact-information> and <https://www.conservation.ca.gov/cgs/Pages/HazardousMinerals/radon2.aspx> .

The EPA recommends all structures should be tested for radon, regardless of geographic location or zone determination. If the radon level is greater than 4 picoCuries per Liter of air (pCi/L), the EPA suggests remediation. Declarant and the Association make no representations,

warranties or guarantees as to the degree of radon risk within the Community. Potential buyers and residents are advised to consult with the County or other public agencies and appropriate experts to evaluate the potential risk.

3.26 Soil Conditions. For in-depth information regarding the geotechnical aspects of the Community, Owners should review the geotechnical report entitled “Geotechnical Feasibility Review and Limited Subsurface Investigation” for the Community, dated October 20, 2021 and prepared by GeoSoils, Inc. (the “*Soils Report*”). Copies of the report are available for viewing at the County. The basic conclusions and recommendations of the Soils Report are summarized below, but the following summary is not exhaustive, and, in the event of a conflict herein with the Soils Report, the Soils Report will control.

3.26.1 Expansive Soil. The soil in the Community is composed of materials that have “expansive” characteristics. Owners should perform soils testing, use special construction techniques and take precautions when constructing new Improvements or modifying existing Improvements because the soil expands when it is wet and can cause Improvements to lift and crack. Owners should consider the following information and recommendations before making or modifying any Improvements:

(a) ***Concrete and Masonry Improvements.*** Special attention is required in designing and constructing concrete and masonry Improvements such as masonry walls and planters, concrete slabs, patios, sidewalks, spas and decking. For example, steel reinforcing bars may be required in lieu of steel mesh in concrete patio slabs. Block walls may require extra horizontal and vertical steel reinforcing bars. Spas located at or near the top or bottom of a slope or on expansive soils may require special design and construction methodology.

(b) ***Drainage and Irrigation.*** Owners must use adequate drainage and irrigation control. The construction or modification of Improvements by Owners should not result in ponding of water. Owner-installed drainage devices, including, but not limited to, concrete ditches, area drain lines and gutter should be carefully designed and installed with professional assistance and then maintained in an unobstructed condition. Drainage devices installed by Declarant designed to serve more than one (1) Unit should not be altered in a manner that will redirect or obstruct the drainage through these drainage devices. All Owner-installed landscape irrigation systems should be designed, constructed, and operated to prevent excessive saturation of soils. All Owner-installed landscaping (if any) must be designed to ensure that water drains away from the Residence footings and other Improvements. Obstructions such as walls should not be constructed across swales unless adequate replacement drainage Improvements have been installed or created. Planters should be lined with an impervious surface and should contain outlets to drain excess water. Owners shall maintain and keep clear of debris any drainage or facility or device constructed by Declarant.

3.26.2 Slope Creep. While horizontal and vertical movement of earth at or near tops or bottom of slopes (often described as “slope creep”) is generally minor in nature and does not always occur, it may affect Improvements such as spas, patios, walls, slabs, planters, decking and the like. Slope creep can cause Improvements to tilt and crack and may cause cracking or lifting in brickwork or concrete in a manner that will allow these Improvements to function yet not meet the Owner’s cosmetic expectations. Professional soils and structural engineers should be

retained to design and construct such Improvements to mitigate the effects of slope creep and to ensure compliance with special rules for such Improvements that are required under the applicable Building Code or other applicable regulations. If possible, Improvements should not be constructed within ten (10) feet of the edge, top or bottom of a slope. Even with professional assistance, minor lifting and cracking can occur.

3.26.3 Fill Soil. The Residences in the Community are constructed on fill soil in accordance with the recommendations and inspection of licensed civil and soils engineers. Buildings constructed on fill soil will demonstrate some post-placement settlement. The Soils Reports certifying the compaction of fill soil is available for review at the County.

3.26.4 Corrosive Soil. Soils in the Community have a potential for soluble sulfate effects on normal concrete and chloride effects and should be considered highly corrosive to buried metals due to low resistivity. Corrosive soil may corrode buried metal Improvements. Owners should advise their consultants that below-ground Improvements must be constructed of materials that are compatible with corrosive soils.

3.26.5 Shallow Groundwater. The Community is located in an area that is subject to shallow groundwater. According to the Soils Report, groundwater was encountered approximately 4 to 15 feet below grade at the time of soils sampling. These groundwater levels are representative of the date and time that the subsurface investigation was performed and levels are likely to fluctuate in response to tidal influence, seasonal changes and variations in the rates of local groundwater withdrawal. The fill soil use within the Community may provide some additional ground depth before reaching groundwater. Owners must notify any Person who will construct structures on or below the ground, including pools and spas, of the shallow groundwater and take such matters into consideration in designing and installing such structures and any trees with deep root systems.

3.26.6 Interior Gases and Other Contaminants. The aging process of soil and natural soil elements, as well as the aging of man-made building materials, may create unwanted and undesired gases and other contaminants in Residences, both new and previously occupied. In addition, a lower rate of air exchange between outdoor and indoor environments has resulted from modern construction techniques, which comply with energy conservation requirements enacted by the State of California. A lower air exchange rate can result in the build-up of unwanted gases and other contaminants in varying degrees. As the quality of the air we breathe can affect our health, Owners should frequently air out their Residence by opening the windows.

3.27 Surrounding Uses. The Community is located in an area that is experiencing rapid growth. This disclosure is intended to provide Owners with information on surrounding uses as of the date of Recordation. Uses and Improvements in the immediate vicinity of the Community include the items listed below:

North of the Community: Salt Creek Channel; Olive Road; Residential/Open Space; Proposed School Site; Proposed Future Public Park.

South of the Community: Domenigoni Parkway; Vacant; Residential.

East of the Community: Vacant; Residential.

West of the Community: Vacant; Residential; Leon Road.

Existing and proposed uses in surrounding areas may change without notice. Neither Declarant nor the Association has any control over uses outside the Community. Owners are advised to contact applicable local governmental agencies for updated information concerning the development plan for the surrounding community.

3.28 Vacant Land/Development of Surrounding Area. The Community is adjacent to vacant land and any development of nearby undeveloped or partially developed areas will result in additional vehicle and foot traffic, noise, and dust, and will increase the amount of dirt and litter on the streets. Existing surrounding topography may change and future grading to accommodate development will result in the alteration, increase, reduction, or elimination of existing grades, hillside, mountains, landscaping, etc. New streets in the area may be constructed and existing streets may be widened, realigned, or extended. These and other future road improvements will increase traffic flow on existing roadways.

3.29 Proximity to Agricultural Lands and Prior Agricultural Use. The Community is located on land that was previously used for agricultural purposes (including dry farming) and is located in the vicinity of lands which are currently in use for agricultural purposes. By reason of such agricultural use, Owners and other residents in the Community may be subject to dust, noise and odors and may be exposed to pesticides, herbicides, insecticides and other chemicals. Many procedures normal and necessary to the operation of agricultural uses such as growing of field crops, dairy production, poultry farms and feed lots result in noise, noxious odors, chemical spraying, dust, irrigation or other potentially detrimental effects to residential use of the adjacent community. Each Owner, for and on behalf of himself, and the members of his Family, his contractors, residents, tenants, lessees, guests and invitees, expressly acknowledges and accepts these existing and future impacts and forever waives any and all causes of actions against the County, Declarant, the Association and their respective directors, officers, employees, agents, representatives and consultants for any damages or injuries which may arise from or relate to any such conditions or risks. Neither Declarant nor the Association has any control over agricultural operations on lands outside the Community.

3.30 Salt Creek Channel. The Community is located in close vicinity to the Salt Creek Channel. The flood control channel is a potential hazard and Owners should exercise caution. During periods of heavy rain, water and debris may accumulate in the channel. Children and pets around the flood control channel must be closely watched to prevent accidental drowning and other injuries. The flood control channel may also contribute to the propagation of mosquitoes, other pests and odors in the Community. It is Owner's sole responsibility to control or otherwise abate the impact of mosquitoes and mosquito bites. Declarant does not represent or guarantee the safety of any person from mosquito bites. Declarant is not responsible for maintenance of the flood control channel or for the safety of Owner, Owner's family, guests, tenants, invitees, agents or employees. Owners and other residents are advised to keep children and animals away from the channel at all times.

3.31 Residential Developments. There are existing single-family and multi-family residential developments located in the vicinity of the Community. Owners will experience increased automobile and pedestrian traffic resulting from the proximity of these residential

developments to the Community. Declarant has no control over the proximity, height and design of such nearby buildings and makes no representation on the future impacts that these residential developments will have on residents of the Community.

3.32 **Public Park.** A public park is planned to be located north and east of the Community on Lot 1 of Tract No. 32817, which will be owned and maintained by the County and/or the Valley Wide Recreation and Parks District. The public park may include, but not be limited to, play equipment, tables, benches and turf area. There is no guarantee that the park will be constructed. If the park is constructed, residents in the vicinity of the park may experience noise, traffic and parking congestion and other impacts from normal use of the park and maintenance activities, including use and traffic from the public's use of the park.

3.33 **Future School Site.** A public school site is currently planned to be located to the north and east of the Community on Lot 2 of Tract No. 32817. There may be noise, traffic, lights and other impacts resulting from the use of the school site. Declarant and the Association make no representations or warranties regarding the timing, type or service area of any school facility that may be developed on the school site or whether the school site will be built.

3.34 **Major Highways and Thoroughfares.** Major highways and thoroughfares are located within the vicinity of the Community, which include, among others, Domenigoni Parkway, Winchester Road, Prairie Loop, Blalock Place, Olive Road, Rice Road and Leon Road. Neither Declarant nor the Association has any control over the use, maintenance or care of any highways and thoroughfares located within the vicinity of the Community. Owners may experience noise, dust and traffic within and in the vicinity of the Community based on the public's use of some of the above-referenced highways and thoroughfares.

3.35 **Megan's Law Notice.** The following notice is given pursuant to Section 2079.10a of the California Civil Code:

"Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at California Megans Law. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides."

Declarant makes no representations, warranties or guarantees regarding the presence or absence of registered sex offenders within the Community or in the surrounding area. Declarant has no obligation or duty to investigate existing residents or buyers to determine whether they are sex offenders. Owners are solely responsible for making their own investigation.

3.36 **Property Lines.** The boundaries of each Unit in the Community and the Association Property are delineated on subdivision (tract) maps, lot line adjustments, parcel maps or Condominium Plans that are public records and are available at the County Recorder's office.

3.37 **No Enhanced Protection Agreement.** No language in this Declaration or any Supplemental Declaration shall constitute, or be interpreted to constitute, an enhanced protection

agreement (“EPA”), as defined in California Civil Code Section 901. 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.

3.38 **Additional Provisions; Future Enforceability.** There may be provisions of various laws, including, without limitation, the Davis-Stirling Common Interest Development Act codified at Sections 4000, *et seq.* of the California Civil Code, California’s Fair Employment and Housing Act at Sections 12900, *et seq.* of the California Government Code, and the Federal Fair Housing Act codified at Title 42 United States Code, Section 3601, *et seq.*, among other laws, which may supplement or override the Governing Documents. Declarant makes no representations or warranties regarding the future enforceability of any portion of the Governing Documents.

ARTICLE 4 THE ASSOCIATION

4.1 **General Duties And Powers.** The Association has the duties and powers enumerated and described in the Governing Documents, in addition to the general and implied powers of a nonprofit mutual benefit corporation, generally to do all things that a corporation organized under California law may lawfully do which are necessary or proper in operating for the general welfare of the Owners, subject only to the limits on the exercise of such powers listed in the Governing Documents. Unless otherwise indicated in the Articles, Bylaws, this Declaration, or a Supplemental Declaration, the powers of the Association may be exercised by the Board. The Association’s obligations hereunder shall commence upon the first Close of Escrow or such other date as designated by Declarant in a Supplementary Declaration.

4.2 **Specific Duties And Powers.** In addition to its general powers and duties, the Association has the following specific powers and duties.

4.2.1 **Association Property.** The power and duty to accept, maintain and manage the Association Property in accordance with the Governing Documents. The Association may install or remove capital Improvements on the Association Property. The Association may reconstruct, replace or refinish any Improvement on the Association Property.

4.2.2 **Utilities.** The power and duty to obtain, for the benefit of the Community, all water, gas and electric services necessary for the Association Property.

4.2.3 **Granting Rights.** The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in the Association Property owned in fee simple by the Association, to the extent any such grant is reasonably required (a) for Improvements to serve the Community, (b) for purposes of conformity with the as-built location of Improvements installed or authorized by Declarant or the Association, (c) in connection with any lawful lot line adjustment, or (d) for other purposes consistent with the intended use of the Community. This power includes the right to create and convey easements for one or more Owners over portions of the Association Property. The Association may de-annex any portion of the Community from the encumbrance of the Declaration in connection with any lawful lot line adjustment.

After the Association acquires fee title to a portion of the Association Property, the affirmative vote of members owning at least sixty-seven percent (67%) of the Condominiums in

the Community shall be required before the Board may grant exclusive use of any portion of that Association Property to any member, except as provided in California Civil Code Sections 4202(a)(4) and 4600. Any measure placed before the members requesting that the Board grant exclusive use of any portion of the Association Property shall specify whether the Association will receive any monetary consideration for the grant and whether the Association or the transferee will be responsible for providing any insurance coverage for exclusive use of the Association Property.

4.2.4 **Employ Personnel.** The power to employ Persons necessary for the effective operation and maintenance of the Association Property, including legal, management and accounting services.

4.2.5 **Insurance.** The power and duty to obtain and keep in effect the policies of insurance specified in this Declaration.

4.2.6 **Sewers and Storm Drains.** The power and duty to maintain any private sewer systems, private storm drains, or private drainage facilities in the Association Property in accordance with the Governing Documents.

4.2.7 **Maintenance Guidelines.** The power and duty to (a) operate, maintain and inspect the Association Property and its various components in conformity with any Maintenance Guidelines and any maintenance manual, and (b) review any maintenance manual for necessary or appropriate revisions no less than annually after the Board has prepared the Budget.

4.2.8 **Rules and Regulations.** The power, but not the duty, to adopt, amend, repeal and create exceptions to, the Rules and Regulations.

(a) **Standards for Enforceability.** To be valid and enforceable, a Rule must satisfy all the following requirements:

- (i) The Rule must be in writing;
- (ii) The Rule is within the authority of the Board conferred by law or by this Declaration, the Articles or the Bylaws;
- (iii) The Rule is not inconsistent with governing law, this Declaration, the Articles or the Bylaws;
- (iv) The Rule is adopted, amended or repealed in good faith and in substantial compliance with the requirements of Article 4 of Title 6 of Part 4 of Division 2 of the California Civil Code;
- (v) The Rule is reasonable; and
- (vi) The Rule complies with the requirements of California Civil Code Section 4350.

(b) **Areas of Regulation.** The Rules and Regulations may concern use of the Community and any common amenities in the Community, signs, parking restrictions,

minimum standards of property maintenance, the operation in the Community of drones, unmanned aircraft systems (UAS), unmanned aerial vehicles (UAV), model aircraft, and similar vehicles or devices by any other name, now existing or that may be developed in the future, whether operated for hobby use or for business purposes, by Owners, tenants or residents, or by contractors or invitees, and any other matter under the Association's jurisdiction.

(c) **Limits on Regulation.** The Rules and Regulations must apply uniformly to all Owners and must comply with this Declaration and all applicable state and local laws. The rights of Owners to display in or on their Units religious, holiday and political signs, symbols and decorations of the kinds normally displayed in residential neighborhoods shall not be abridged. However, the Association may adopt time, place and manner restrictions for such displays if they are visible outside the Condominium. No modification to the Rules and Regulations may require an Owner to dispose of personal property that was in compliance with all rules previously in force; however, this exemption shall apply only during the period of such Owner's ownership of the Unit and it shall not apply to: (1) subsequent Owners who take title to a Unit after the modification is adopted; or (2) clarifications to the Rules and Regulations.

(d) **Procedure for Adoption, Amendment and Repeal.** Rules or procedures concerning (1) the use of Association Property, (2) the use of a Condominium, including any aesthetic standards or Design Guidelines that affect Condominiums, (3) member discipline, including any schedule of monetary penalties for violation of the Governing Documents, (4) any procedure for the imposition of penalties, (5) any standards for delinquent assessment payment plans, (6) any procedures adopted by the Association for resolution of assessment disputes, (7) any procedures for reviewing and approving or disapproving a proposed physical change to a Unit or to the Association Property, and (8) procedures for elections (each, a "**Covered Rule**") may only be adopted, amended or repealed (each, a "**Rule Change**") in accordance with the following procedure:

(i) The Board must provide written notice ("**Notice**") of a proposed Rule Change to the members at least thirty (30) days before making the Rule Change, except for an Emergency Rule Change (defined below). The Notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change;

(ii) The decision on a proposed Rule Change shall be made at a Board meeting after consideration of comments made by the members of the Association;

(iii) The Board shall deliver Notice of the Rule Change to every member of the Association within fifteen (15) days of adoption. If the change was an Emergency Rule Change, the Notice shall include the text of the Emergency Rule Change, and the date on which the Emergency Rule Change expires;

(iv) If the Board determines that an immediate Rule Change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association, it may make the change on an emergency basis ("**Emergency Rule Change**") and no Notice will be required. An Emergency Rule Change is effective for one hundred-twenty (120) days, unless the Emergency Rule Change provides for a shorter effective

period. Any Rule Change that is adopted as an Emergency Rule Change may not be re-adopted under authority of this subpart;

(v) A Notice required by this Section 4.2.8(d) is subject to California Civil Code Section 4360;

(vi) A Rule Change made pursuant to this Section 4.2.8(d) may be reversed as provided in California Civil Code Section 4365.

(e) **Exceptions to Procedure.** The procedure in Section 4.2.8(d) does not apply to:

(i) Rules that do not meet the definition of Covered Rules above;

(ii) decisions of the Board regarding maintenance of Association Property;

(iii) a decision on a specific matter that is not intended to apply generally;

(iv) a decision setting the amount of an Annual Assessment or a Special Assessment;

(v) any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of Improvements, which shall be approved in accordance with Section 13.2.1.

(vi) a Rule Change that is required by law if the Board has no discretion as to the substantive effect of the changes; or

(vii) issuance of a document that merely repeats existing law or the Governing Documents.

4.2.9 Borrowings. The power, but not the duty, to borrow money for purposes authorized by the Articles, Bylaws, Declaration or any Supplemental Declarations, and to use the Association Property as security for the borrowing.

4.2.10 Contracts. The power, but not the duty, to enter into contracts. This includes contracts with Owners or other Persons to provide services or to maintain Improvements in the Community and elsewhere which the Association is not otherwise required to provide or maintain by this Declaration. The Board also has the power, but not the duty, to (a) enter into a contract with a credit reporting service to make regular reports to credit bureaus of both timely and delinquent payment of Annual Assessments by all Owners, and (b) recover from delinquent Owners the delinquent payment reporting fee charged the Association by the credit reporting service as part of the "reasonable fees and costs of collection" of delinquent Assessments under California Civil Code Section 5650. If the Board elects to use a credit reporting service, then the Board shall include in the Association's annual assessment and foreclosure policy statement (as

described in the Bylaws and California Civil Code Section 5730) the amount of the reporting fee that it may recover from delinquent Owners.

4.2.11 Mutual Benefit Declarations. The power and the duty to perform all obligations therein, and to negotiate or renegotiate as necessary to effectuate its terms; provided, however, that the Association shall have no power to terminate the Mutual Benefit Declaration without the prior written approval of Declarant.

4.2.12 Telecommunications Contract. Notwithstanding anything in the Governing Documents to the contrary, the Board shall have the power to enter into, accept an assignment of, or otherwise cause the Association to comply with the terms and provisions of an exclusive telecommunications services contract ("**Telecommunications Contract**") with a telecommunications service provider ("**Service Provider**"), pursuant to which the Service Provider shall serve as the provider of Telecommunications Services to each Unit in the Community. The Board shall only enter into, accept an assignment of, or otherwise cause the Association to comply with the terms of the Telecommunications Contract if the Board determines that the Telecommunications Contract is in the best interests of the Association. Although not exhaustive, the Board shall consider the following factors in making such a determination in the exercise of its business judgment:

(a) **Initial Term and Extensions.** The initial term of the Telecommunications Contract should not exceed five (5) years, and, if the Telecommunications Contract provides for automatic extensions, the length of each such extension should also not exceed five (5) years.

(b) **Termination.** The Telecommunications Contract should provide that: (1) at least six (6) months before the end of either the initial or any extended term of the Telecommunications Contract, the entire Membership of the Association may, with the vote or written approval of more than fifty percent (50%) of all Members other than Declarant, prevent any automatic extension that the Telecommunications Contract may provide for (with or without cause), and thereby cause the Telecommunications Contract to expire, and (2) at any time with reasonable notice periods, the Board may terminate the Telecommunications Contract if, in the sole discretion of the Board, the Service Provider fails to provide quality, state-of-the-art Telecommunications Services.

(c) **Fees.** Whether the monthly fee charged to the Association by the Service Provider for the provision of the Telecommunications Services to all of the Units represents a discount from the comparable retail fees charged by the Service Provider in the general geographic area in which the Community is located, and, if so, the amount of such discount.

(d) **Installation of Telecommunications Facilities.** Whether the Service Provider is solely responsible for the installation, and the cost thereof, of all of the Telecommunications Facilities necessary to provide Telecommunications Services to each Unit.

(e) **Removal of Telecommunications Facilities.** Whether the Service Provider has the right to remove the Telecommunications Facilities upon expiration or termination of the Telecommunications Contract.

4.2.13 Indemnification.

(a) ***For Association Representatives.*** To the fullest extent authorized by law, the Association has the power and duty to indemnify Board members, Association officers, Design Review Committee members, and all other Association committee members for all damages, pay all expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action brought because of performance of an act or omission within what such Person reasonably believed to be the scope of the Person's Association duties ("***Official Act***"). Board members, Association officers, Design Review Committee members, and all other Association committee members are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any person entitled to such indemnification.

(b) ***For Other Agents of the Association.*** To the fullest extent authorized by law, the Association has the power, but not the duty, to indemnify any other Person acting as an agent of the Association for damages incurred, pay expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act.

(c) ***Provided by Contract.*** The Association also has the power, but not the duty, to contract with any Person to provide indemnification in addition to any indemnification authorized by law on such terms and subject to such conditions as the Association may impose.

4.2.14 **Vehicle and Parking Restrictions.** The power granted in Section 2.14 to identify Authorized Vehicles or Restricted Vehicles and to modify the vehicle and parking restrictions in the Governing Documents.

4.2.15 **License and Use Agreements.** The Association may enter into agreements with Declarant or any homeowners association to share facilities located on the Association Property or to share such facilities as are under the control of the other homeowners association (each, a "***Facility***"). Any such agreement shall be in form and content acceptable to Declarant, the Board of Directors (without the approval of Owners) and Declarant or the board of directors of any adjacent homeowners association and shall include provisions regarding use and sharing of maintenance costs for the Facility.

4.2.16 **Landscaping.** The Board has the power, but not the duty, to grant Owners revocable licenses that allow Owners to replace and/or add landscaping Improvements to any portion of the Association Property, subject to the prior written approval of the Board, any reasonable restrictions or conditions the Board may impose, and the right of the Board to revoke such license, remove the Improvements and charge the Owner for the cost of such removal.

4.2.17 **Assumption of Mutual Benefit Declaration.** The power and duty to assume the rights and obligations of "Declarant" under any Mutual Benefit Declarations which Declarant may, during the development of the Community, enter into with one or more Local Governmental Agencies, one or more homeowners association, with an owner or owners of real property which is not and will not be annexed to the Community and the coverage of its Governing Documents, or any combination of the foregoing.

4.2.18 Prohibited Functions.

(a) **Property Manager.** The Association shall not hire any employees, furnish offices or other facilities, or use any Association Property for an “on-site” Manager. The Manager shall at all times be a professional manager employed as an independent contractor or agent working at its own place of business.

(b) **Off-site Nuisances.** The Association shall not use any Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of the Community.

(c) **Political Activities.** The Association shall not conduct, sponsor, participate in or expend funds or resources toward any activity, campaign or event, including any social or political campaign, event or activity which does not directly and exclusively pertain to the authorized activities of the Association. Furthermore, the Association shall not participate in federal, state or local activities or activities intended to influence a governmental action affecting areas outside the Community (for example, endorsement or support of legislative or administrative actions by a local governmental authority), nor shall it support or campaign for or against candidates for elected or appointed office or ballot proposals. There shall be no amendment of this Section so long as Declarant or a Tricon Affiliate owns any portion of the Community.

4.2.19 **Standing to Resolve Disputes.** The Association shall have standing to institute, defend, settle or intervene in litigation, alternative dispute resolution or administrative proceedings (each, an “**Action**”) in its own name as the real party in interest and without joining the Owners, in matters pertaining to (a) damage to the Association Property, (b) damage to portions of the Units which the Association is obligated to maintain or repair, and (c) damage to portions of the Units which arises out of, or is integrally related to, damage to the Association Property or portions of the Units that the Association is obligated to maintain or repair (each, a “**Claim**”). However, the Association shall not have standing to institute, defend, settle or intervene in any Action in any matter pertaining only to an individual Unit and not included in clauses (b) and (c) above.

The Association may, in its sole discretion, elect to institute, intervene in, continue, settle or dismiss an Action at any time. If the Association institutes or intervenes in an Action on a Claim, the Association’s standing shall be exclusive, and the Owners shall thereafter be barred from instituting a new Action or maintaining a pending Action on the same Claim. The Association’s election to institute or intervene in an Action on a particular Claim shall not create any affirmative obligation on the part of the Association to maintain, settle or dismiss the Action, except in the Association’s sole discretion, and subject to Section 12.4. If the Association elects to settle an Action, the terms of the settlement shall be binding on the Owners, and the Owners shall be barred from instituting or continuing any other Action on the same Claim. If the Association elects to dismiss an Action, the dismissal shall be with prejudice to the institution or continuation by one or more Owners of any Action on the same Claim.

4.3 Standard of Care, Non-Liability.

4.3.1 Scope of Powers and Standard of Care.

(a) **General Scope of Powers.** Rights and powers conferred on the Board, the Design Review Committee or other committees or representatives of the Association by the Governing Documents are not duties, obligations or disabilities charged upon those Persons unless the rights and powers are explicitly identified as including duties or obligations in the Governing Documents or law. Unless a duty to act is imposed on the Board, the Design Review Committee or other committees or representatives of the Association by the Governing Documents or law, the Board, the Design Review Committee and the committees have the right to decide to act or not act. Any decision not to act is not a waiver of the right to act in the future.

(b) **Business Affairs.** This Section 4.3.1(b) applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances, and Design Review Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner the Board member believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing Board duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial data prepared or presented by:

(i) One (1) or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(ii) Counsel, independent accountants or other Persons as to matters which the Board member believes to be within such Person's professional or expert competence; or

(iii) A committee of the Board upon which the Board member does not serve, as to matters under its designated authority, which committee the Board member believes to merit confidence, so long as, in any such case, the Board member acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

This Section 4.3.1(b) is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this Section 4.3.1(b).

(c) **Association Governance.** This Section 4.3.1 applies to Board actions and Design Review Committee decisions in connection with interpretation and enforcement of the Governing Documents, architectural and landscaping control, regulation of uses within the Community, rulemaking and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

4.3.2 Non-liability.

(a) **General Rule.** No Person is liable to any other Person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Association (or to any party

claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct. The Association is not liable for damage to property in the Community unless caused by the negligence of the Association, the Board, the Association's officers, the Manager or the Manager's staff.

(b) ***Non-liability of Volunteer Board Members and Officers.*** A volunteer Board member or volunteer Association officer shall not be personally liable to any Person who suffers injury, including bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all applicable conditions specified in California Civil Code Section 5800 are met.

(c) ***Non-liability of Owners.*** Pursuant to California Civil Code Section 5805, no Owner shall be liable for any cause of action in tort which can be brought against the Owner solely because of the Owner's undivided interest in the Condominium Common Area so long as the Association keeps one (1) or more policies of insurance which include coverage for general liability of the Association in the amount required by California Civil Code Section 5805 and that insurance is in effect for the cause of action being brought.

4.4 **Membership.**

4.4.1 **Generally.** Every Owner shall automatically acquire a Membership in the Association and retain the Membership until such Owner's Condominium ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Condominium is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Condominium is transferred, and every Membership is appurtenant to and may not be separated from the fee ownership of the Condominium. The rights, duties, privileges and obligations of all Owners are as provided in the Governing Documents.

4.4.2 **Transfer.** The Membership of any Owner may not be transferred, pledged or alienated in any way, except on the transfer or encumbrance of such Owner's Condominium, and then only to the transferee or Mortgagee of the Owner's Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold the Owner's Condominium to a contract purchaser under an agreement to purchase may delegate the Owner's Membership rights to the contract purchaser. The delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all Assessments attributable to the contract seller's Condominium which accrues before title to the Condominium is transferred. If the contract seller fails or refuses to delegate the Membership rights to the contract purchaser before the Close of Escrow, the Association may record the transfer to the contract purchaser in the Association's records. However, no contract purchaser will be entitled to vote at Association meetings during the term of a purchase contract without satisfactory evidence of the delegation of the contract seller's Membership rights to the contract purchaser. The Association may levy a reasonable transfer fee against a new Owner and such Owner's Condominium (which fee shall be paid through escrow or added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the Association's records. Such fee may not exceed the Association's actual cost involved in changing its records.

4.4.3 **Classes of Membership.** The Association classes of voting Membership are as follows:

(a) **Class A.** Class A members are all Owners except Declarant for so long as a Class B Membership exists. Class A members are entitled to one (1) vote for each Condominium owned by such Class A members which is subject to Assessment. Declarant shall become a Class A member on conversion of Declarant's Class B Membership as provided below. The vote for each Condominium shall be exercised in accordance with Section 4.5, but no more than one (1) Class A vote may be cast for any Condominium.

(b) **Class B.** The Class B member is Declarant and any SFR Owner (provided, however, all voting rights of an SFR Owner are assigned to Declarant as set forth below). The Class B member is entitled to three (3) votes for each Condominium owned by Declarant or an SFR Owner which is subject to Assessment. The Class B Membership shall convert to Class A Membership on the earlier to occur of the following events:

(i) The total outstanding votes held by Class A members equal the outstanding votes held by the Class B member; or

(ii) The second (2nd) anniversary of the first Close of Escrow in the Community.

4.4.4 **Class B Board Appointment Right.** The Declarant, for the duration of its Class B Membership, shall also have a limited right to appoint a simple majority of the members of the Board of Directors (the "**Board Appointment Right**"). The Board Appointment Right may be exercised in any election occurring during its term without regard to whether, at the time votes may be cast in an election, the Declarant or an SFR Owner owns any Condominiums that are then subject to Annual Assessments.

(a) **Limits on Exercise of Board Appointment Right.** Until the expiration of the Board Appointment Right as determined below, the Declarant shall not be permitted to cast any of its Class A or Class B votes to elect any member of the Board of Directors. Instead, the Declarant's power to fill seats on the Board shall be limited solely to exercise of the Board Appointment Right. Following the expiration of the Board Appointment Right, the Declarant shall have the right to cast its Class A votes (if any) to elect members of the Board.

(b) **Term of Board Appointment Right.** The Board Appointment Right shall remain effective until the earlier of:

(i) the date on which the Class B Membership converts to Class A Membership; or

(ii) the date on which Declarant no longer owns any portion of the Community; or

(iii) the date set by Declarant in a written notice delivered to the Board.

(c) **No Amendment without Declarant Consent.** Notwithstanding anything to the contrary in this Declaration, this Section 4.4.4 shall not be amended or terminated without the prior written consent of Declarant until the Board Appointment Right is no longer effective.

4.5 **Voting Rights.** Voting rights attributable to the Units in the Community shall be exercised only after Annual Assessments have commenced in the Community.

4.5.1 **Limits Generally.** All voting rights are subject to the Governing Documents. Except as provided in Sections 4.5.2 and 12.3 of this Declaration and as provided in the Bylaws, as long as there is a Class B Membership, any provision of the Governing Documents which expressly requires the vote or written consent of a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall require the approval of such specified percentage of the voting power of both the Class A and the Class B Memberships. Except as provided in Section 12.3 of this Declaration and as provided in the Bylaws, on termination of the Class B Membership, any provision of the Governing Documents which expressly requires the vote or written consent of Owners representing a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall then require the vote or written consent of Owners representing such specified percentage of both (a) the Association's total Class A voting power, and (b) the Association's Class A voting power represented by Owners other than Declarant.

4.5.2 **Relinquishment of Control Regarding Initiation of Right to Repair Law Claim.** Beginning on the date of the first annual meeting of Owners, Declarant relinquishes control over the Association's ability to decide whether to initiate a Right to Repair Law Claim, whether by action of the Board or action by the Owners. This means that Declarant, current employees and agents of Declarant, Board members who are appointed by Declarant, Board members elected by a majority of votes cast by 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 Board or the Owners to initiate a Right to Repair Law Claim.

4.5.3 **Joint Ownership.** When more than one (1) Person holds an interest in any Unit ("*co-owners*"), each co-owner may attend any Association meeting, but only one (1) co-owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation is revoked, the vote for the Condominium shall be exercised as the co-owners owning the majority interests in the Condominium agree. Unless the Association receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the co-owners' consent. No vote may be cast for any Condominium if the co-owners present in person or by proxy owning the majority interests in such Condominium fail to agree to the vote or other action. The nonvoting co-owner or co-owners are jointly and severally responsible for all obligations imposed on the jointly-owned Condominium and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance

with the voting percentages established in the Governing Documents are binding on all Owners and their successors in interest.

4.5.4 **Ownership by Legal Entity.** When title to a Condominium is held by a legal entity recognized under California law ("**Entity Owner**") that is not a natural person, the governing authority of such Entity Owner may designate in writing to the Association one (1) natural person ("**Entity Owner Representative**") to exercise the single vote to which the Condominium is entitled. Fractional votes shall not be allowed. Where no designation of an Entity Owner Representative is made or if the designation is revoked, the vote for the Condominium shall be exercised as determined by the Entity Owner. Unless the Association receives a written objection in advance of the election from the governing authority of the Entity Owner, it shall be conclusively presumed that the vote exercised by the Entity Owner was properly exercised in accordance with the Entity Owner's procedures.

ARTICLE 5 DESIGN REVIEW COMMITTEE

5.1 **Members Of Committee.** The Design Review Committee shall be composed of three (3) members. The initial members of the Design Review Committee shall be representatives of Declarant until one (1) year after the original issuance of the Public Report for the Community ("**First Anniversary**"). After the First Anniversary, the Board may appoint and remove one (1) member of the Design Review Committee, and Declarant may, but is not obligated to, appoint and remove a majority of the members of the Design Review Committee and fill any vacancy of such majority, until the earlier to occur of (a) Close of Escrow for the sale of ninety percent (90%) of all the Units in the Community, or (b) the fifth (5th) anniversary of the original issuance of the Public Report for the Community, after which the Board may appoint and remove all members of the Design Review Committee. Design Review Committee members appointed by the Board must be Owners or agents of Owners, but Design Review Committee members appointed by Declarant need not be Owners or agents of Owners. Owner-Board members may be appointed by the Board to serve as Design Review Committee but only if a reasonable effort is made to fill the positions on the Design Review Committee with persons who are not Board members and a position remains vacant.

5.2 **Powers and Duties.**

5.2.1 **General Powers and Duties.** The Design Review Committee has the power and duty to promulgate Design Guidelines against which to examine any request made pursuant to this Article. The Design Review Committee shall annually issue and update its Design Guidelines and provide notice of any requirements for Committee approval of proposed Improvements. The Design Review Committee shall consider and act upon all plans and specifications submitted for its approval, including inspection of work in progress to assure conformity with plans approved by the Design Review Committee, and shall perform such other duties as the Board assigns to it.

5.2.2 **Issuance of Standards.** The Design Review Committee shall annually issue and update its Design Guidelines and provide notice of any requirements for Committee approval of proposed Improvements. The notice shall describe the types of proposed

Improvements that require Committee approval, and it shall include a copy of the procedure used to review and approve or disapprove such proposed Improvements. The Design Guidelines or Rules and Regulations may set the amount of a fee required to accompany each application for approval, and may identify additional factors which the Design Review Committee will consider in reviewing submissions. The Design Review Committee may provide that fees it imposes be uniform, or that fees be determined in any other reasonable manner. The Design Review Committee may require such detail in plans and specifications submitted for its review as it deems proper, including landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors.

5.2.3 Retaining Consultants. The Design Review Committee has the power, but not the duty, to retain licensed architects, contractors and other professionals to advise its members in connection with decisions.

5.3 Review of Plans and Specifications.

5.3.1 Improvements Requiring Approval. No Owner may begin construction, reconstruction, installation, removal or alteration of any outdoor Improvement in or on a Unit, including remodeling, landscaping, grading, excavation, filling or other alteration to the grade or level of the land, without prior Design Review Committee approval. The provisions of this Article apply to construction, installation and alteration of solar energy systems, as defined in California Civil Code Section 801.5, subject to the provisions of California Civil Code Sections 714 and 714.1, the applicable Building Code, zoning regulations, and other laws. The Design Review Committee may review the Improvements' impact on (1) the structural integrity of the Residence, (2) the safety of the Owners and the public, (3) the noise heard beyond the Unit in which the Improvement is located, (4) fire safety, (5) common utilities and (6) the Association Property (collectively, the "***Design Factors***"). The Design Review Committee may review the impact the construction, installation, or altering of the Improvement has on the Design Factors, as well as the impact the completed Improvement has on the Design Factors.

5.3.2 Application Procedure. Owners who seek Committee approval shall submit plans and specifications showing the dimensions, exterior elevation, color, materials used and location of the proposed Improvements, along with an initial review fee in an amount set in writing from time to time by the Committee, along with all other deposits and review materials required under this Article (collectively, an "***Application***"). Until changed by the Board, the address for the submission of the Application is the Association's principal office. The form of Application used by the Design Review Committee may include spaces allowing "Adjacent Owners" to sign or initial the Application confirming that they have been notified of the application. The Design Review Committee may establish a definition of "Adjacent Owners" in its Design Guidelines. Applications will be complete and may be approved or disapproved by the Design Review Committee even if all of the Adjacent Owners do not initial the Applications so long as the Owner submitting plans and specifications (the "***Applicant***") certifies that the Applicant has asked the Adjacent Owners to sign the Applications. The requirement that the Applicant attempt to obtain the signatures of Adjacent Owners is intended only to provide notice of the pending application to the Adjacent Owners. It does not create in the Adjacent Owners any power to approve or disapprove the Application by signing or withholding a signature. Only the Committee may approve or disapprove an Application.

The Design Review Committee shall deliver its written approval, disapproval, or request for additional information or materials to the Applicant at the address listed in the Application no later than the date that is forty-five (45) calendar days after the date on which the Design Review Committee has received the complete Application (the "**Review Deadline**"). If, on the Review Deadline, the Committee has failed to deliver to the Applicant its written approval, disapproval, or request for additional information or materials, then the Application shall be deemed approved, and the Manager or a representative of the Board or Committee shall at the request of the Applicant execute a written approval therefor within fifteen (15) days after receipt of such request.

5.3.3 Standard for Approval. A decision on a proposed Improvement shall be consistent with California law, made in good faith and may not be unreasonable, arbitrary or capricious. If disapproved, the written decision shall include both an explanation of why the proposed Improvement is disapproved and a description of the procedure for reconsideration by the Board. The Design Review Committee shall approve an Application only if it determines that (a) installation, construction or alterations of the Improvements in the locations proposed will not be detrimental to the appearance of the Community as a whole, (b) the appearance of the proposed Improvements will be in harmony with the existing Improvements and the overall design theme in the Community, (c) installation, construction or alteration of the proposed Improvements will not detract from the beauty, wholesomeness and attractiveness of the Community or the enjoyment of the Community by the Owners, (d) maintenance of the proposed Improvements will not become a burden on the Association, and (e) the proposed Improvements are consistent with the Governing Documents. The Committee's decision on a proposed change may not violate any governing provision of law, including the Fair Employment and Housing Act, or a building code or other applicable law governing land use or public safety. The Committee may consider the impact of views from other Units, reasonable privacy right claims, passage of light and air, beneficial shading and other aesthetic factors in reviewing, approving or disapproving any Application. However, neither the Declarant nor the Association warrants that any views in the Community are protected. No Unit is guaranteed the existence or unobstructed continuation of any particular view.

5.3.4 Conditions of Approval. The Design Review Committee may condition its approval of an Application for any Improvement on any one (1) or more of the following:

- (a) The Applicant's delivery to the Association of security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Association Property or another Owner's Unit as a result of such work;
- (b) The Applicant's delivery to the Association of the review fee described in Section 5.3.2 above;
- (c) Such changes to the Application as the Design Review Committee considers appropriate;
- (d) The Applicant's agreement to grant to the Association or other Owners such easements as are made reasonably necessary by the existence of the Improvement;
- (e) The Applicant's agreement to install water, gas, electrical or other utility meters to measure any increased utility consumption;

(f) The Applicant's agreement to reimburse the Association for the cost of maintaining the Improvement (should the Association agree to accept maintenance responsibility for the Improvement as built);

(g) The Applicant's agreement to complete the proposed work within a stated period of time;

(h) If required by the Committee, the Applicant's deposit of adequate funds with the Association to repair or restore any Association Property that may be damaged by the Applicant or the Applicant's contractors. The Design Review Committee will determine the actual amount of the deposit in each case, but the amount shall be at least enough to cover the cost of repairing or restoring damage that is reasonably foreseeable to the Design Review Committee. The deposit shall be refundable to the extent the Design Review Committee finds that the work of Improvement is complete, and that the Association Property was not damaged or was restored at least to its condition when the work began;

(i) If required by the Committee, the submission of additional plans and specifications or other information before approving or disapproving the Application.

5.3.5 Governmental Approvals. The Applicant shall meet the requirements of all applicable ordinances, codes and regulations of the County, including zoning laws, building and safety codes, fire codes and applicable inspection and permit requirements before making any construction, installation or alterations permitted under this Declaration. All approvals issued by the Committee are in addition to, and not in lieu of, applicable governmental approvals, which the Applicant must also obtain at his sole cost, prior to or concurrently with Committee approvals, and before commencing any work. Furthermore, governmental approvals are in addition to, and not in lieu of, Committee approvals required under the Governing Documents. No determination by any governmental agency that the Applicant has met applicable governmental requirements for a particular Improvement shall relieve the Applicant of its obligation to obtain all required Committee approvals required under this Article and the Governing Documents.

5.3.6 Matters Outside Scope of Approval. The Design Review Committee's approval or disapproval of each Application shall be based solely on the aesthetic considerations listed in this Article. Approval of any Application does not constitute a finding or a warranty by the Design Review Committee that the work of Improvement described in the Application or any portion of the Application (a) incorporates good engineering practices, (b) complies with applicable law, ordinance, code, or regulation, including zoning laws, building and safety codes or fire codes, (c) complies with the requirements of any utility provider, or (d) is permissible under the terms of any easement, license, permit, Mortgage, deed of trust, or other recorded or unrecorded instrument (other than the Governing Documents) that affects the land. Nothing in this Declaration shall be construed to require Design Committee approval of any construction, reconstruction, installation, removal or alteration of an Improvement by Declarant or by the Association.

5.3.7 Exculpation of Committee. By submitting an Application, each Applicant is deemed to agree that neither the Design Review Committee, nor the members thereof, nor Declarant, nor their respective agents, employees, attorneys or consultants shall be liable to any Person for:

(a) Any matter outside the Committee's scope of approval as discussed in Section 5.3.6 above;

(b) Any defect in any Improvement constructed by or on behalf of the Applicant pursuant to an approved Application;

(c) Any loss, damage, or injury to Persons or property arising out of or in any way connected with work performed by or on behalf of the Applicant pursuant to an approved Application; or

(d) Any loss, damage, or injury to Persons or property arising out of or in any way connected with the performance of the Design Review Committee's duties hereunder, unless due to willful misconduct or gross negligence.

5.4 Meetings and Actions of the Design Review Committee. The Design Review Committee shall meet as necessary to perform its duties. As long as a majority of the members of the Design Review Committee are Declarant representatives, the Design Review Committee may, by resolution unanimously adopted in writing, designate an Owner or a Declarant representative to serve as a Design Review Committee Representative to take any action or perform any duties for and on behalf of the Design Review Committee except the granting of variances. The Design Review Committee Representative need not be a current member of the Design Review Committee. In the absence of such designation, the vote or written consent of a majority of the Design Review Committee constitutes an act of the Design Review Committee. All approvals issued by the Design Review Committee must be in writing. Verbal approvals issued by the Design Review Committee, any individual Design Review Committee member or any other representative of the Association are not valid, are not binding on the Association and may not be relied on by any Person. If within six (6) months after issuance of the approval, an Owner either does not begin work pursuant to approved plans or obtain an extension of time to begin work, the approval shall be automatically revoked and a new approval must be obtained before work can begin.

5.5 No Waiver of Future Approvals. The Design Review Committee's approval of any proposals, plans and specifications or drawings for any work done or proposed in connection with any matter requiring the Design Review Committee's approval does not waive the right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

5.6 Compensation of Members. The Design Review Committee's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

5.7 Inspection of Work. The Design Review Committee or its duly authorized representative may inspect any work for which approval of plans is required under this Article ("**Work**"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy (including removal of) any noncompliance with the Design Review Committee-approved plans for the Work or with the requirements of this Declaration ("**Noncompliance**").

5.7.1 Time Limit for Inspections. When the Work is complete, the Applicant shall immediately provide the Committee with written notice of completion on the form prescribed by the Committee. The Design Review Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate on the date that is sixty (60) calendar days after the date on which the Committee has received written notice from the Applicant on a form provided by the Committee that the Work is complete. If the Design Review Committee fails to send a written notice of Noncompliance to an Applicant before this time limit expires, the Work shall be deemed to comply with the approved Application.

5.7.2 Noncompliance. If an Improvement that requires the prior approval of the Design Review Committee is (a) commenced or completed without prior written approval by the Committee, (b) is not completed within the time limit established by the Committee in its approval, or (c) is not completed in substantial conformity with the approved Application, or (d) if no time limit is established by the Committee, the Applicant fails to complete the Work within one (1) year after the date on which the Application was approved, then a Noncompliance is deemed to exist, and then the Committee has the right, but not the obligation, to deliver a written notice of Noncompliance to the violating Owner, and the Association may, but is not required to, pursue the remedies set forth in this Section.

5.7.3 Remedy for Noncompliance. The Committee shall notify the Board in writing when an Owner fails to remedy any Noncompliance within sixty (60) days after the date of the notice of Noncompliance. After Notice and Hearing, the Board shall determine whether there is Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Association may record a Notice of Noncompliance (if allowed by law), correct the Noncompliance and charge the Owner for the Association's costs, or commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

5.8 Variances. The Design Review Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or the Design Guidelines including restrictions on height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Variances must be evidenced in writing, must be signed by a majority of the Committee, and become effective on Recordation. After Declarant's right to appoint a majority of the Design Review Committee's members ends, the Board must approve any variance recommended by the Design Review Committee before any such variance becomes effective. If variances are granted, no violation of this Declaration shall be deemed to have occurred concerning the matter for which the variances were granted. The granting of a variance does not waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision of this Declaration covered by the variance, nor does it affect the Owner's obligation to comply with all laws affecting the use of that Owner's Unit. The Committee's written variance shall be Recorded against the Applicant's Unit in the Official Records. The cost of Recording the variance shall be borne solely by the Applicant. No variance shall conflict with local ordinances or any specific plan for the Community without the prior written approval of the County.

5.9 **Pre-Approvals.** The Design Review Committee may authorize pre-approval of specified types of construction activities if, in the exercise of the Design Review Committee's judgment, a pre-approval is appropriate to carry out the purposes of the Governing Documents.

5.10 **Appeals.** If a proposed Improvement is disapproved, the Applicant is entitled to reconsideration by the Board of Directors at an open meeting that satisfies the requirements of California Civil Code Section 4900, *et seq.* This paragraph does not require reconsideration of a decision that is made by the Board, or the Design Review Committee if the Committee has the same membership as the Board.

ARTICLE 6 PROPERTY EASEMENTS AND RIGHTS

6.1 **Easements.** The easements established herein shall commence upon the earlier to occur of (i) date more than one Owner owns real property within the Community, or (ii) the date Association Property is transferred to the Association.

6.1.1 **Maintenance and Repair.** Declarant reserves for the benefit of the Association and all Association agents, officers and employees, nonexclusive easements over the Community as necessary to fulfill the obligations and perform the duties of the Association.

6.1.2 **Utility Easements.** Declarant reserves easements to install and maintain utilities over the Association Property for the benefit of the Owners and their Condominiums. Declarant reserves the right to grant additional easements and rights-of-way throughout the Community to utility companies and public agencies as it deems necessary for the proper development and disposal of the Community. Such right of Declarant shall expire on the Close of Escrow for the sale of the last Unit in the Community.

6.1.3 **Encroachments.** Declarant reserves, for its benefit and for the benefit of all Owners and their Condominiums, a reciprocal easement appurtenant to each Condominium over the other Condominiums and the Association Property to accommodate (a) any existing encroachment of any wall or any other Improvement installed by Declarant or approved by the Design Review Committee, and (b) shifting, movement or natural settling of the Residence or other Improvements.

6.1.4 **Easements for Public Service Use.** Declarant reserves easements over the Community for public services of the local government agencies, including but not limited to, the right of law enforcement and fire protection personnel to enter upon the Community to carry out their official duties.

6.1.5 **Easements for Water and Utility Purposes.** Declarant reserves easements over the Community for public and private utility purposes, including but not limited to, the right of any public utility or mutual water district of ingress and egress over the Community to read and maintain meters, and use and maintain fire hydrants.

6.1.6 **Completion of Improvements.** Declarant reserves the right and easement to enter the Community to complete any Improvement which Declarant considers desirable to implement Declarant's development plan.

6.1.7 Owners' Easements in Association Property. Declarant reserves, for the benefit of every Owner, and each Owner's Family, contractors, residents, tenants or invitees, nonexclusive easements for pedestrian and vehicular access (all as applicable) over the Association Property in the Community as reasonably necessary for the use and enjoyment of each Condominium in the Community. This easement is appurtenant to and passes with title to every Condominium in the Community, but is to be exercised subject to the rights, restrictions, covenants and easements in the Governing Documents and the Association's right to reasonably restrict access to rooftops, maintenance facilities and other areas of the Association Property that are designated by the Board.

6.1.8 Easements for Access to and Maintenance of Association Maintenance Areas. Declarant reserves, for the benefit of the Association, nonexclusive easements over each Condominium in the Community as necessary for access to and maintenance of Association Maintenance Areas described herein, and as may be described and/or depicted in a Supplemental Declaration. No Owner may interfere with the Association's exercise of its rights under the easements reserved in this Section.

6.1.9 Community Wall Easements. Declarant reserves for the benefit of the Association the following easements:

(a) An easement over all Units abutting the perimeter of the Community or Association Property, consisting of a three (3) -foot wide strip of land lying along the perimeter boundary, to accommodate the footings and other structural components of any wall or fence located on or immediately adjacent to such property line, including any encroachments thereof onto the Condominium; and

(b) An easement for access over such Units as reasonably necessary for maintaining any Community Wall (if a Community Wall enclosing a Unit is designated in a Supplemental Declaration) and related Improvements.

6.1.10 Access Easements.

(a) **Reserved for Models.** Declarant reserves for its benefit easements for pedestrian and vehicular ingress and egress over the Private Streets and through any entry gates serving the Community during business hours, seven (7) days per week, for access to those Condominiums within the Community which are used by Declarant, or its assignee, for models or sales offices, as permitted by the County. Declarant shall have the right to assign this easement, by written assignment, to any successor in interest. This easement shall terminate when the use of such Condominiums by Declarant or its assignee, for models or sales office purposes, has been permanently terminated.

6.1.11 Drainage Easements. Declarant reserves, for the benefit of the Community, the Owners and the Association, reciprocal nonexclusive easements for drainage of water over, across and on the Community.

6.1.12 Telecommunications Easement. Declarant reserves blanket easements (collectively, "**Telecommunications Easements**") over the Community for access and for purposes of constructing, installing, locating, altering, operating, maintaining, inspecting,

upgrading, removing and enhancing Telecommunications Facilities (collectively, "**Telecommunications Purposes**") for the benefit of Declarant. Such easements are freely transferable by Declarant to any other Person and their successors and assigns. No one, except for Declarant and Declarant's transferees, may use the Community for Telecommunications Purposes. All Telecommunications Facilities shall be owned, leased or licensed by Declarant, as determined by Declarant, in its sole discretion and business judgment. Transfer of the Community does not imply transfer of any Telecommunications Easements or Telecommunications Facilities. The holders of the Telecommunications Easements may not exercise the rights reserved hereunder in any manner which will unreasonably interfere with the reasonable use and enjoyment of the Community by any Owner. If the exercise of any Telecommunications Easement results in damage to the Community, then the easement holder who caused the damage shall, within a reasonable period of time, repair such damage. If Declarant has not conveyed the Telecommunications Easements in the Community to another Person before the last Close of Escrow in the Community, then Declarant grants the Telecommunications Easements to the Association effective as of the last Close of Escrow in the Community.

6.1.13 Sideyard Easements. Declarant hereby reserves over the Sideyard Burdened Units in the Community nonexclusive Sideyard Easements appurtenant to the Sideyard Benefited Units in the Community. The Sideyard Easements in the Community are depicted on **Exhibit D** attached hereto; provided, however, the actual locations of the Sideyard Easements shall be defined by the physical locations of the Improvements as built by a Declarant or rebuilt substantially in accordance with the original plans (if available). The Owners of the Sideyard Burdened Units and Sideyard Benefited Units are subject to the restrictions and covenants of this Section respecting their use and enjoyment of the Sideyard Easements.

(a) **Authorized Uses.** The Sideyard Easements are reserved for the benefit of the applicable Sideyard Benefited Unit for all of the following purposes:

(i) Access to and maintenance of the exterior wall and foundation of the Residence on the Sideyard Benefited Unit, including without limitation, any gutter or downspout attached to the Residence;

(ii) Access to and maintenance of any Party Walls that are required to be maintained by the Owners, including encroachment of the footings of such walls;

(iii) Encroachment by chimneys, eaves, overhangs, foundation footings, rain gutters, storm drains or other Improvements on the Residence of the Sideyard Benefited Unit; and

(iv) Drainage of water from the Residence or other portions of the Sideyard Benefited Unit across the Sideyard Easement.

(b) **Maintenance.** Sideyard Easements (and every Improvement thereon) shall be maintained continuously in a neat and orderly condition by the Owner of the Sideyard Burdened Unit in accordance with all Maintenance Guidelines.

(c) **Access by Sideyard Benefited Unit Owner.** The Owner of the Sideyard Benefited Unit shall have the right, at reasonable times, on reasonable prior notice to the

Owner of the Sideyard Burdened Unit and in a reasonable manner, to enter the Sideyard Easement for the purpose of maintenance of the Sideyard Benefited Unit Owner's Residence, including any gutter or downspout attached to the Residence. In order to access the Sideyard Easement, the Owner of the Sideyard Benefited Unit requires a right of entry over the remainder of the Sideyard Burdened Unit (the "**Sideyard Right to Enter**"). This Sideyard Right to Enter includes the right to enter those portions of the fenced-in yard of the Sideyard Burdened Unit that are reasonably necessary to reach the Sideyard Easement area after providing the notice as required in this Section 6.1.13. The Sideyard Benefited Unit Owner shall be responsible for any damage to person, animal or property that may be caused by the exercise of the Right to Enter onto the Sideyard Burdened Unit.

(d) **Prohibited Uses.** Neither Owner shall be permitted to store any trash or property in the Sideyard Easement. This restriction does not extend to use and enjoyment of the Sideyard Easement by the Sideyard Burdened Unit Owner for normal use, such as placing yard furniture, water fountains and other similar items for use and enjoyment. The Sideyard Burdened Unit Owner shall not block any vent of the Residence on the Sideyard Benefited Unit. The Sideyard Burdened Unit Owner shall not affix any Improvement, including plants or other landscaping, any sports equipment or any other item or Improvement to the Residence constructed on the Sideyard Benefited Unit without the prior written consent of the Owner of the Sideyard Benefited Unit. Additional restrictions may be included in a Supplemental Declaration.

(e) **Permanent Improvements Within Sideyard Easement.** Except for Party Walls, the Residences and other Improvements constructed by Declarant as part of the original construction on both Units, and except as otherwise authorized above, no fence, wall or other permanent Improvement of any kind (other than landscaping and irrigation equipment) shall be constructed in the Sideyard Easement by the Owner of the Sideyard Burdened Unit located within two (2) feet of the Residence located on the Sideyard Benefited Unit without the prior written approval of the Owner of the Sideyard Benefited Unit and the Design Review Committee and shall not install structural Improvements over the water quality filtration system located within the Sideyard Easement. The foregoing is in addition to and not in lieu of any required building permit or other governmental approval or requirements, including County setback requirements for patio covers, spas or similar Improvements.

(f) **Drainage.** Except as otherwise permitted in this Section 6.1.13, no Improvement (including landscaping) shall be constructed, altered, placed or permitted to remain upon the Sideyard Easement if it will: (i) change the direction of flow of the established drainage on the Sideyard Burdened Unit or Sideyard Benefited Unit; or (ii) damage or alter any drainage system serving the Sideyard Burdened Unit; or (iii) obstruct, interfere or retard the flow of water through such system, unless such change is mitigated by alternative drainage facilities constructed with the prior approval of the Committee and applicable Local Government Agencies.

(g) **Notice.** In the event of an emergency, the Sideyard Benefited Unit Owner may enter upon the Sideyard Easement at any time and without prior notice. For purpose of this Section, an "emergency" means any situation where there is an imminent threat of injury to Persons or damage to property. Notice for any other purpose requires prior written notice to the Owner of the Sideyard Burdened Unit of at least twenty-four (24) hours.

(h) **Disputes.** In the event of any dispute arising between the Owners affected by the Sideyard Easement concerning the rights and obligations created by this Section, each Owner shall each choose one (1) arbitrator, and such arbitrators shall choose one (1) additional arbitrator, and the decision of a majority of all the arbitrators shall be binding upon such Owners.

6.2 **Shared Walkway Easements.** Declarant reserves for the benefit of each Unit utilizing a Shared Walkway and its Owner, an easement for pedestrian access, ingress and egress over the portion of such Shared Walkway located within the adjacent Unit (it being recognized that a Shared Walkway may be located entirely within a single Unit). Any Shared Walkways are reserved for the exclusive use of the Units served thereby.

6.3 **Additional Easements.** Declarant reserves easements over the Association Property owned in fee simple by the Association for the exclusive use by an Owner or Owners of contiguous property as a yard, recreational, gardening, and landscaping area. Subject to Section 4.2.3, any such easement may be conveyed by the Declarant before the last Close of Escrow for sale of a Condominium in the Community. Such conveyance must be approved by the Board, which approval must not be unreasonably withheld. The purpose of the easement, the portion of the Association Property affected, the Condominium to which the easement is appurtenant, and any restrictions on use of the easement area shall be identified in a Recorded grant of easement.

6.4 **Delegation of Use.** Any Owner may delegate the Owner's right to use the Association Property in writing to the Owner's tenants, contract purchasers or subtenants who reside in such Owner's Condominium, subject to regulation by the Board.

6.5 **Right of Entry.**

6.5.1 **Association.** The Association has the right to enter the Units to inspect and maintain the Association Property, including all Association-maintained Improvements, and take whatever corrective action it determines to be necessary or proper. Entry onto any Unit under this Subsection may be made after at least three (3) days' advance written notice to the Owner of the Condominium except for emergency situations, which shall not require notice. For purposes hereof, an "emergency situation" is a situation in which there is an imminent threat of injury to persons or damage to property, as determined by the Board in the exercise of its sound business judgment. Any damage to a Unit or personal property therein that is caused by entry under this Subsection shall be repaired by the Association. In making such repair, the Association shall not be responsible for costs beyond those necessary to repair or restore the damaged item to the condition it was in immediately prior to the damage.

6.5.2 **Declarant.** The Declarant has the right to enter the Units, and the Association Property in the Community (a) to comply with requirements for the recordation of subdivision maps or lot line adjustments in the Community, (b) for repair of Improvements in accordance with the provisions of the Right to Repair Law, (c) to accommodate grading or construction activities, and (d) to comply with requirements of applicable Local Government Agencies. Declarant shall provide the Association or the Owner (as applicable) reasonable notice before such entry, except for emergency situations, which shall not require notice. For purposes

hereof, an "emergency situation" is a situation in which there is an imminent threat of injury to persons or damage to property, as determined by the Declarant. Any damage to the Association Property or to a Condominium or personal property therein that is caused by entry under this Subsection shall be repaired by the Declarant. In making such repair, the Declarant shall not be responsible for costs beyond those necessary to repair or restore the damaged item to the condition it was in immediately prior to the damage. Unless otherwise specified in the applicable initial grant deed by which Declarant has transferred ownership of the subject Condominium or subject Association Property, this right of entry shall automatically expire on the later of the date that is twelve (12) years after (a) the date this Community Declaration is Recorded, or (b) the date the grant deed is Recorded by which Declarant first conveyed fee title to the subject real property under authority of a Public Report.

6.5.3 Owners. Each Owner shall permit other Owners, and their representatives, to enter the Unit, subject to the limitations set forth below, in order to perform installations, alterations or repairs to the mechanical or electrical services to the entering Owner's Condominium if (a) requests for entry are made in advance, (b) entry is made at a time reasonably convenient to the Owner whose Unit is to be entered, and (c) the entered Unit is left in substantially the same condition as existed immediately preceding such entry. Notwithstanding the foregoing, an Owner shall not have the right to enter another Owner's Unit unless entry is reasonably necessary to enable the entering Owner to correct or repair an Improvement for which the entering Owner is responsible. Owners have no right to enter another Owner's Unit to perform maintenance or repair of any Association Property or any other Improvement for which another Owner or the Association is responsible. Any damage to the entered Unit, or any personal property therein which is caused by entry under this Subsection shall be repaired by the entering Owner. In making such repair, the entering Owner shall not be responsible for costs beyond those necessary to repair or restore the damaged item to the condition it was in immediately prior to the damage.

ARTICLE 7 ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

7.1 Personal Obligation to Pay Assessments. Each Owner shall pay to the Association all Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the amount necessary for the purpose for which it is levied. All Assessments, together with late payment penalties, interest, costs, and reasonable attorney fees for the collection thereof, are a charge and a continuing lien on the Condominium against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs and reasonable attorney fees, is also the personal obligation of the Person who was the Owner of the Condominium when the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any new Owner ("**Purchaser**") unless expressly assumed by the Purchaser or unless the Purchaser has actual or constructive knowledge of such delinquent Assessments, whether by virtue of the Recordation of a Notice of Delinquent Assessment or receipt from the Association of a certificate pursuant to California Civil Code Section 4525.

7.2 Association Maintenance Fund Accounts. The Association shall establish separate Association Maintenance Fund accounts into which shall be deposited all money paid to the Association and from which disbursements shall be made, as provided in this Declaration. The

Association Maintenance Fund accounts shall be established as trust accounts at a banking or savings institution and shall include: (a) a General Operating Fund account for current Common Expenses, (b) an adequate General Reserve Fund account for the portion of Common Expenses allocated to reserves for Improvements which the Board does not expect to repair or replace on an annual or more frequent basis; and (c) any other accounts which the Association may elect to establish. The Association shall require the bank or savings institution to send monthly account statements for all accounts directly to the Association. If a Manager is retained by the Association, then the Manager shall maintain records and bank accounts for the Association separate from other associations that use the Manager's services, and the Manager shall have no authority to draw checks on, or transfer funds from, any Reserve Fund of the Association.

7.3 Purpose of Assessments. Annual Assessments shall be used exclusively to (a) promote the Owners' recreation and welfare, (b) operate, improve and maintain the Association Property, and (c) discharge any other Association obligations under this Declaration. All amounts deposited into the general Operating Fund and general Reserve Fund must be used solely for the common benefit of all Owners as authorized by this Declaration. Disbursements from any Operating Fund (including the general Operating Fund) generally shall be made by the Association to discharge Association responsibilities which cannot be discharged by disbursements from the corresponding Reserve Fund. However, if the Board determines that the general Operating Fund contains excess funds, the Board may transfer the excess funds to any other Association Maintenance Fund. Disbursements from the general Reserve Fund shall be made by the Association only for the purposes specified in this Article and in California Civil Code Sections 5510(b) and 5515, and only in accordance with California Civil Code Sections 5380, 5502, and 5510.

7.4 Waiver of Use. No Owner may be exempt from personal liability for Assessments duly levied by the Association, nor release such Owner's Condominium from the liens and charges thereof, by waiving use and enjoyment of the Association Property or by abandoning such Owner's Condominium.

7.5 Limits on Annual Assessment Increases.

7.5.1 Maximum Authorized Annual Assessment For Initial Year of Operations. During the Fiscal Year in which Annual Assessments commence, the Board may levy an Annual Assessment per Unit in an amount which exceeds one hundred twenty percent (120%) of the amount of Annual Assessments disclosed for the Community in the most current Budget filed with and reviewed by DRE only if the Board first obtains the approval of Owners casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Units are represented ("**Increase Election**"). This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.4.

7.5.2 Maximum Authorized Annual Assessment For Subsequent Fiscal Years. During the Fiscal Years following the Fiscal Year in which Annual Assessments commence, the Board may levy Annual Assessments which exceed the Annual Assessments for the immediately preceding Fiscal Year only as follows:

(a) If the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must either (1) have distributed the Budget for the current Fiscal Year in accordance with California Civil Code Section 5300, or (2) obtain the approval of Owners casting a majority of votes in an Increase Election; or

(b) If the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must obtain the approval of Owners casting a majority of votes in an Increase Election.

This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.4.

7.5.3 Supplemental Annual Assessments. If the Board determines that the Association's essential functions may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in Sections 7.5.1, 7.5.2 and 7.4, the Board may levy a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Unit.

7.5.4 Emergency Situations. For purposes of Sections 7.5.1, 7.5.2 and 7.7, an "Emergency Situation" is any one of the following:

(a) An extraordinary expense required by an order of a court;

(b) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible where a threat to personal safety on the Community is discovered; and

(c) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Before imposing or collecting an Assessment pursuant to this Subsection (c), the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Owners with the notice of the assessment.

7.6 Annual Assessments.

7.6.1 Commencement of Annual Assessments. Except as provided below, Annual Assessments shall commence on all Units in the Community on the first day of the first calendar month following the first Close of Escrow in the Community or such other earlier date as Declarant may designate in a Supplementary Declaration.

7.6.2 Assessment and Proration. Annual Assessments for fractions of a month shall be prorated. Declarant shall pay its full pro rata share of the Annual Assessments on all

unsold Units for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Unit at least thirty (30) days in advance of each Annual Assessment period. However, unless otherwise established by the Board, the initial Annual Assessments shall be assessed in accordance with the most recent Budget on file with and reviewed by DRE. Written notice of any change in the amount of any Annual Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent by first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days before the increased Assessment becomes due.

7.6.3 Apportionment of Annual Assessments. All Annual Assessments shall be assessed uniformly and equally against the Owners and their Units based on the number of Units owned by each Owner.

(a) ***Disposition of Funds Remaining at End of Fiscal Year.*** The Board may determine that funds remaining in the Operating Fund at the end of the Fiscal Year be retained and used to reduce the following Fiscal Year's Annual Assessments.

(b) ***Disposition of Funds Remaining at Abandonment or Termination of Community.*** On dissolution of the Association incident to the abandonment or termination of the Community as a condominium project, any amounts remaining in any of the Association Maintenance Funds shall be distributed to or for the benefit of the Owners in the same proportions as such money was collected from the Owners.

(c) ***Revisions to Budgeted Common Expenses.*** The Board has the power to revise the Budget from time to time, including making changes to the Common Expenses listed in the Budget, without amending this Declaration. In the event of a conflict between this Declaration and the adopted Budget, the adopted Budget shall control.

7.6.4 Payment of Annual Assessments. Each Owner shall pay Annual Assessments in installments at such frequency, in such amounts and by such methods as are established by the Board. If the Association incurs additional expenses because of a payment method selected by an Owner, the Association shall charge the additional expenses to the Owner. Each installment of Annual Assessments may be paid to the Association in one (1) check or in separate checks as payments attributable to specified Association Maintenance Funds. If any payment of an Annual Assessment installment (a) is less than the amount assessed and (b) does not specify the Association Maintenance Fund or Funds into which it should be deposited, then the amount received shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied and second to the Reserve Fund.

7.7 Special Assessments. The Board may levy, in any Fiscal Year, (a) a Capital Improvement Assessment to defray, in whole or in part, the Association's costs described in Section 1.1.11, (b) a Reconstruction Assessment to defray the Association's extraordinary expense of repair or reconstruction of Association Property in the situations described in California Civil Code Section 5610, or (c) a Special Assessment or increase for other purposes permissible under California Civil Code Section 5610.

7.7.1 Limitations. No Capital Improvement Assessment or Special Assessment described in part (c) of Section 7.7 above may be levied in any Fiscal Year which, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceed five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year, may be levied without the vote or written consent of Owners casting a majority of votes at an Increase Election. This Section does not apply to Special Assessments described in Sections 1.1.75(a) or 1.1.75(b).

7.7.2 Emergencies. The Board may levy, in any Fiscal Year, a Reconstruction Assessment or Special Assessment described in parts (b) and (c) of Section 7.7 above applicable to that Fiscal Year which exceeds five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 7.5.4. This Section does not apply to Special Assessments described in Sections 1.1.75(a) or 1.1.75(b).

ARTICLE 8 INSURANCE

8.1 Duty to Obtain Insurance; Types. The Association shall obtain and keep in effect at all times the following insurance coverages:

8.1.1 Commercial General Liability. A policy of commercial general liability insurance (including coverage for medical payments), insuring the Association and the Owners against liability for bodily injury, death and property damage arising from or relating to the ownership or use of the Association Property. Such policy shall specify amounts and include protection from liability and risks as are customarily covered in similar condominium developments in the area of the Community, and shall include a severability of interest endorsement or the equivalent which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of other Owners, or the Association or the Association's officers and directors acting in their capacity as officers and directors, and which policy shall name the Declarant as additional insured. The Association's policies shall at all times specify limits no less than the minimum amounts required by California Civil Code Sections 5800 and 5805.

8.1.2 Fire and Casualty Insurance. A "master" or "blanket" policy of fire and casualty insurance with extended coverage, special form, without deduction for depreciation, in an amount as near as possible to the full replacement value of all insurable Improvements on the Association Property including fixtures, to the extent they are part of the Association Property, service equipment and supplies, and other common personal property belonging to the Association. The policy amount shall be at least equal to such coverage as is commonly required by prudent institutional mortgage investors in the area in which the Community is located. The Association shall not carry a policy of earthquake insurance unless the Board is directed to obtain earthquake coverage by a majority of the Association's voting power. If the Board is directed to obtain earthquake coverage, then it shall maintain such policies in effect until directed by a majority of the Association's voting power to discontinue coverage.

8.1.3 Fidelity Bond Coverage. The Association shall maintain fidelity bond coverage for any Person handling funds of the Association, including Association officers,

directors, employees, volunteers, and agents, and the Manager and its employees), whether or not such persons are compensated for their services, in an amount that is at least equal to or more than the combined amount of the reserves of the Association and three (3) months' worth of Annual Assessments on all Units in the Community. The Association's fidelity bond shall also include coverage for computer fraud and funds transfer fraud. If the Association uses a Manager, then the Association's fidelity bond coverage shall additionally include coverage for dishonest acts by the Manager and its employees. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association and each servicer of a Fannie Mae –held or –serviced Mortgage.

8.1.4 Requirements of FHA, VA, Fannie Mae, Ginnie Mae, Freddie Mac and FHFA. Notwithstanding anything in the Governing Documents to the contrary, the amount, term and coverage of any policy of insurance required under this Article 8 (including the endorsements, the amount of the deductible, the named insureds, the loss payees, standard mortgage clauses, notices of changes or cancellations, and the insurance company rating) shall also satisfy the minimum requirements established for this type of development (if applicable) by FHA, VA, Fannie Mae, Ginnie Mae, Freddie Mac and FHFA, and any successor to those entities, so long as any of those entities is a Mortgagee or Owner of a Unit in the Community, except to the extent such coverage is not reasonably available or has been waived in writing by the entity requiring the insurance coverage. If the above entities have not established requirements on any policy required hereunder, the term, amount and coverage of such policy shall, subject to Section 8.1.1 above, be no less than that which is customary for similar policies on similar projects in the area of the Community.

8.1.5 Flood Insurance. If the Community is located in an area which has been officially identified by the Federal Emergency Management Agency as a "Special Flood Hazard Area," then the Association must carry at all times a "master" or "blanket" policy of flood insurance on all of the Association Property in an amount deemed appropriate by the Association, but not less than the lesser of: (a) the maximum coverage available under National Flood Insurance Program for all Association Property in the Community to the extent the Association Property is located in a Special Flood Hazard Area; or (b) 100% of current replacement cost of all Association Property located in such area.

8.1.6 Other Insurance. Such other insurance insuring other risks customarily insured by associations managing condominium projects similar in construction, location and use. Such additional insurance may include general liability insurance and director's and officer's errors and omissions insurance in the minimum amounts established in California Civil Code Section 5805.

8.1.7 Beneficiaries. The Association's insurance shall be kept for the benefit of the Association, the Owners and the Mortgagees, as their interests may appear as named insureds, subject, however, to loss payment requirements established in this Declaration.

8.2 Waiver of Claim Against Association. All policies of insurance kept by or for the benefit of the Association and the Owners must provide that the Association and the Owners waive and release all claims against one another, the Board and Declarant, to the extent of the

insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence or breach of any agreement by any of the Persons.

8.3 Right and Duty of Owners to Insure. Each Owner is responsible for insuring the Owner's personal property and all other property and Improvements in the Owner's Unit for which the Association has not purchased insurance in accordance with Section 8.1.

8.3.1 Fire and Casualty Insurance. Each Owner of a Unit is responsible for insuring their own personal property, the Residence, the land, and other Improvements on the Owner's Unit, with policies of fire and casualty insurance, and such other insurance, including flood and earthquake insurance, as may be required by a Mortgagee or deemed desirable by the Owner to carry.

8.3.2 Liability Insurance. Nothing in this Declaration precludes any Owner from carrying any public liability insurance he considers desirable; however, Owners' policies may not adversely affect or diminish any coverage under any of the Association's insurance policies.

8.3.3 Policy Copies. Duplicate copies of Owners' insurance policies shall be deposited with the Association on request.

8.3.4 Assignment of Proceeds. If any loss intended to be covered by the Association's insurance occurs and the proceeds payable are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of the Owner's insurance to the Association, to the extent of such reduction, for application to the same purposes as the reduced proceeds are to be applied.

8.4 Notice of Expiration Requirements. If available, each of the Association's insurance policies must contain a provision that the policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without at least ten (10) days' prior written notice to the Board and Declarant, and to each Owner and Mortgagee, insurer and guarantor of a First Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. 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 exclusive 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 9.5. 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 in the Association Property except foundations and footings, 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 Unit;

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 9 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 City 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 at least a majority of 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 after 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 proceed as provided in Section 9.2.

9.2 **Sale of Community and Right to Partition.** No Owner shall have the right to partition of the Owner's interest in the Condominium and there shall be no judicial partition of the Community, or any part thereof, except as provided in California Civil Code Section 4610. For purposes of Subsection 4 of Section 4610(b) partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 9.1 have failed to occur; (b) within six (6) months after the date on which destruction occurred, restoration or repair has not actually commenced; and (c) the Owners of at least sixty seven percent (67%) of the Condominiums in the Community and a Mortgagee Majority approve the partition. In such event, the Association shall prepare, execute and Record, as promptly as practical, the certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Community for the benefit of the Owners and execute such other documents and instruments as may be necessary for the Association to consummate the sale of the Community at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately before such destruction (or condemnation), expressed as

percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Community. The Board is authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. However, the balance then due on any valid Mortgage shall be first paid in order of priority before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing in this Declaration prevents partition of a co-tenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the Condominiums and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Community and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

9.3 Damages to Residences – Reconstruction. If all or any portion of any Residence or other Improvements on a Unit is damaged or destroyed by fire or other casualty, the Owner of the damaged Unit 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 Unit is destroyed to such an extent that it would be impractical to restore the Unit or rebuild damaged Improvements, the Owner shall install landscaping Improvements on the Unit in accordance with Design Review Committee Guidelines. The Owner of any damaged Unit 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 Unit or a Unit 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, as applicable in less than thirty (30) days from the date the transferee acquired title to the Unit.

9.4 Interior Damage. Restoration and repair of any damage to the interior of any individual Residence, including all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Residence so damaged. If a determination to rebuild the Community after partial or total destruction is made, as provided in this Article, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Design Review Committee as provided in this Declaration.

9.5 Notice to Owners and First Mortgagees. The Board, immediately on having knowledge of any damage or destruction of a Unit or affecting a material portion of the Community, shall promptly notify all Owners and First Mortgagees.

9.6 Damage by Owners. Each Owner is liable to the Association for any damage to the Common Property not fully reimbursed to the Association by insurance proceeds (including

any deductible amounts under any insurance policies against which the Association files a claim for such damage), in accordance with Section 2.3.6 above.

ARTICLE 10 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 Property Condemnation. If (a) there is a taking of an interest in all or part of the Community such that the ownership, operation and use of the Community in accordance with this Declaration is substantially and adversely affected, and (b) within one hundred twenty (120) days after the effective date of the taking the Owners of Units (1) not taken, or (2) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition before the taking (collectively, the "Remaining Units") do not by affirmative vote of at least one third (1/3) of their voting power approve the continuation of the Community and the repair, restoration and replacement to the extent feasible of the Association Property and the Remaining Units, then, after obtaining the consent of a Mortgagee Majority, the Board shall proceed with the sale of that portion of the Community which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 9.2.

10.2 Condemnation of Association Property. If there is a taking of the Association Property or any interest therein, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

10.3 Condemnation of Units. If there is a taking of Unit, the award in condemnation shall be paid to the Owner of the Unit; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Unit, in order of priority.

10.4 Notice to Owners and First Mortgagees. The Board, on learning of any taking affecting a Unit or a material portion of the Community, or any threat thereof, shall promptly notify all Owners and First Mortgagees.

ARTICLE 11 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 Units made in good faith and for value, provided that after the foreclosure of any such Mortgage, the foreclosed Unit(s) will remain subject to this Declaration.

11.2 Additional Rights. To induce the VA, FHA, Freddie Mac, Ginnie Mae and Fannie Mae to participate in the financing of the sale of Units, 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 Right of First Refusal. Any "right of first refusal" created or purported to be created by the Governing Documents shall not apply to nor adversely affect the rights of a First Mortgagee to (a) foreclose or take title to a Unit pursuant to the remedies in the First Mortgage, or (b) accept a deed or assignment in lieu of foreclosure in the event of default by a Mortgagor, or (c) sell or lease a Unit acquired by the First Mortgagee through any of the remedies described in (a) or (b).

11.2.2 Required Mortgage Approvals. A Mortgagee Majority must approve any amendment of any of the Governing Documents which is of a material adverse nature to First Mortgagees, as further described in Section 13.2.1.

11.2.3 Deemed Approval. Each First Mortgagee who receives proper written notices from the Association by certified or registered mail with a return receipt requested of any matter requiring the approval of a Mortgagee Majority is deemed to have approved that matter if that First Mortgagee does not submit a written response within sixty (60) days after the notice is delivered to the First Mortgagee.

11.2.4 Notices. Each Mortgagee, insurer and guarantor of a Mortgage encumbering one (1) or more Units, upon filing a written request for notification with the Board, is entitled to written notification from the Association of: (a) any proposed amendment to the Governing Documents affecting a change in (i) the boundaries of any Unit, (ii) the interest in the Condominium Common Area appurtenant to any Unit or the liability for Common Expenses, (iii) the number of Association votes appurtenant to any Unit, or (iv) the purposes to which any Unit or the Association Property are restricted, (b) any proposed termination of the status of the Community as a "condominium project" as defined in California Civil Code Section 4125, (c) any condemnation or casualty loss which affects either a material portion of the Community or the Unit(s) securing the respective First Mortgage, (d) 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 Unit(s) securing the Mortgage, which notice each Owner hereby consents to and authorizes, (e) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond kept by the Association, and (f) any proposed action that requires the consent of a specified percentage of First Mortgagees.

11.2.5 First Mortgagee Rights Confirmed. No provision of this Declaration or any other Governing Document gives any Owner or any other party priority over any rights of a First Mortgagee pursuant to its Mortgage concerning payment to the Owner of insurance proceeds or condemnation awards for losses to or taking of a Unit or any portion of the Association Property.

11.2.6 Unpaid Pre-Foreclosure Assessments. The transfer of fee interest in a Unit as the result of the exercise of the power of sale or a judicial foreclosure involving a default under the First Mortgage shall extinguish the lien of unpaid Assessments which were due and payable prior to the date of the transfer, and the transferee shall take title to the Unit free and clear of all claims for such unpaid Assessments.

11.2.7 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 Association Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Association Property, and the Association shall immediately reimburse First Mortgagees who made such payments.

11.2.8 Availability of Association Documents; Audits. Notwithstanding any requirements of the Bylaws, upon request by a First Mortgagee, owner, lender, holder, insurer or guarantor of a First Mortgage or prospective purchaser, the Association shall make available for inspection, during normal business hours, and on the same terms as members those documents listed in California Civil Code Section 4525. Notwithstanding the foregoing, within a reasonable time after receipt of written request by a First Mortgagee, owner, lender, holder, insurer or guarantor of a First Mortgage or prospective purchaser, the Association shall prepare and furnish to such requesting party an audited financial statement of the Association for the immediately preceding fiscal year. The Association shall have the right to be reimbursed by such requesting party for its reasonable costs associated with furnishing an audited financial statement, and the reasonable costs associated with preparing an audited financial statement if the Association is not otherwise obligated to prepare such audited financial statement. For so long as VA is guaranteeing Mortgages in the Community, a Mortgagee Majority shall have the right to demand an audit of the Association's financial records.

11.2.9 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, FHFA, Freddie Mac, Ginnie Mae, Fannie Mae or any similar entity, so as to allow for the purchase, insurance or guaranty of Units, as the case may be, by such entities. 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 Units, 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 Unit.

ARTICLE 12 ENFORCEMENT AND DISPUTE RESOLUTION

12.1 Enforcement of Governing Documents. All violations of the Governing Documents, except for: those governed by Sections 12.1.8 or 12.3, shall be resolved in accordance with this Section 12.1. Disputes, claims and controversies subject to the Right to Repair Law are not subject to this Section 12.1, but shall be resolved in accordance with Declarant's dispute resolution process described in Section 12.4 below).

12.1.1 Right to Enforce. The Board, the Association, the Declarant and any Owner may enforce the Governing Documents as described in this Article, subject to California Civil Code Sections 5900, *et seq.*, and 5925, *et seq.* 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 California Civil Code Section 5925, *et seq.*, 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 California Civil Code Sections 5900, *et seq.*, and 5925, *et seq.* 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 California Civil Code Section 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 Unit owned by any Owner who has violated any provision of this Declaration. The notice shall include a legal description of the Unit 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 California Civil Code Sections 5900, *et seq.*, and 5925, *et seq.* 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 Right to Repair Law Claim, or a Dispute (defined in Section 12.4) the total value of which is less than Five Hundred Thousand Dollars (\$500,000), (e) as a cross-complaint in litigation to which the Association is already a party, or (f) in connection with any Right to Repair Law Claim. 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.

12.1.8 No Preconditions to Board Authority to Pursue Certain Claims.

Notwithstanding Section 12.1.7 above, nothing in this Declaration or the other Governing Documents shall be interpreted to impose any precondition or limitation on the Board's authority to commence and pursue any of the matters described in California Civil Code Section 5986(b) against a Declarant Party, except as provided in California Civil Code Sections 5986(c) and 6150.

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 Unit was Recorded.

(b) **Notice Before Creating Lien.** Before the Association may place a lien on an Owner's Unit 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 UNIT 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 before the Association may initiate foreclosure against the Owner's Unit, 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" program 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 after the date 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 Unit 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 Unit that has been assessed, (4) the Association's name and address, (5) the name of the Owner of the Unit 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 Unit no later than ten (10) calendar days after Recordation. The lien relates only to the individual Unit 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, *et seq.*

(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 Unit enforceable by the sale of the Unit 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 Condominium may be enforced by foreclosure and sale of the Condominium 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 Condominium number, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least 30 days before any public sale.

(c) The Board shall provide notice by personal service to an Owner who occupies the Condominium or to the Owner's legal representative, if the Board votes to foreclose on the Condominium. The Board shall provide written notice to an Owner who does not occupy the Condominium 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 Condominium 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 Condominium 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 Condominium, and the defaulting Owner shall be required to pay the reasonable rental value for the Condominium 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 Condominium does not affect the Assessment lien, except that the sale or transfer of any Condominium 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 Condominium from liens for any Assessments thereafter becoming due. No Person who obtains title to a Condominium 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 Condominium which became due before the acquisition of title to the Condominium 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 Section 5600, *et seq.* 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 Condominium, 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 Condominium, 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 Condominium 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 Condominium, 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 12.2.7 conflicts with the provisions of the CID Act, the statutory provisions shall control.

12.3 Enforcement of Bonded Obligations. If (a) the Association Property Improvements in the Community are not completed before DRE issues a Public Report, and (b) the Association is an obligee under a bond or other arrangement (a "**Bond**") required by DRE to secure performance of Declarant's commitment to complete such Improvements, then the following provisions of this Section will apply:

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 concerning 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 Association 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) 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 procedures set forth in this Section 12.4 shall be used to resolve Disputes or Claims involving Declarant.

12.4.1 Defined Terms. For purposes of this Section and this Declaration, the following terms shall have the meanings set forth below.

(a) "Claim or Claims" means any and all claims, controversies, breaches or disputes whether based on contract, tort, statute, or equity but expressly excluding Excluded Disputes, by or between (a) a Claimant or Claimant Parties, on the one hand, and (b) Declarant or any Declarant Party, arising under this Declaration or the other Governing Documents, or otherwise relating to the Property.

(b) "Claimant" means the Association or an Owner.

(c) "Claimant Parties" refers collectively to all of the Claimants.

(d) "Declarant Parties" means any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of Declarant. For purposes of this Article, the definition of Declarant Parties set forth in this Section 14.5 shall control and replace the definition of Declarant Party in Section 1.25.

(e) "Excluded Dispute" means (a) actions taken by the Association against Declarant or a Declarant Party to collect delinquent Assessments, (b) any action involving any completion bonds for any Association Property, and (d) any and all disputes which are subject to the dispute resolution procedures contained in any Warranty.

(f) "Involved Parties" means the parties involved in a Claim, which may include (a) an Owner and/or the Association on the one hand and (b) the Declarant or a Declarant Party on the other hand.

(g) "JAMS" means the Judicial Arbitration and Mediation Services.

(h) "JAMS Rules" means the rules established by JAMS.

(i) "Right to Repair Act" means Title 7, Part 2 of Division 2 of the California Civil Code (Section 895 et seq.).

(j) "Right to Repair Procedures" means the procedures set forth in Chapter 4 of the Right to Repair Act.

(k) "Sale or Conveyance Agreement" means any conveyance, contractual agreement or other transaction between the Declarant or a Declarant Party and any of the Claimant Parties relating to the sale of a Residential Lot or conveyance of Association Property.

(l) "Warranty" means any express warranty provided by Declarant or a Declarant Party to an Owner or the Association, if any.

12.4.2 Resolution of Claims.

(a) Small Claims Actions. Except as otherwise provided in this Declaration, if a Claim has a total Claim value less than the amounts established by law as the jurisdictional limit for a small claims action, the Involved Parties may elect to have such Claim resolved in a small claims court in accordance with The Small Claims Act (California Code of Civil Procedure Section 116.110 et seq.).

(b) All Other Claims Other Than Small Claims. All other Claims not covered by Section 12.4.2(a) shall be resolved in accordance with the procedures set forth in Section 12.4.3 and Section 12.4.4 or Section 12.4.5, as applicable.

12.4.3 Claim Process. If a Claimant asserts a Claim, such Claimant shall file a written notice of Claim with Declarant's Agent for Notice at the address provided below. The notice must (a) provide the Claimant's name, address and telephone number (or the information necessary to use an alternative method of contact such as facsimile or e-mail) and (b) describe the Claim in sufficient detail to enable Declarant to determine the location (if applicable), nature and

extent of the Claim. If the Claim is subject to the Right to Repair Act, the notice must include all information required by California Civil Code Section 910 of the Right to Repair Act.

12.4.4 Declarant's Election to Initially Opt-In to Statutory Non-Adversarial Procedures for Claims Subject to Right to Repair Procedures. Declarant hereby provides notice of the existence of the Right to Repair Procedures, and further notifies the Association and each Owner that such Right to Repair Procedures impact the legal rights of each Claimant. To the extent the Right to Repair Act is held to be applicable to a Claim, Declarant notifies the Owners and the Association that Declarant has initially elected to use the Right to Repair Procedures for the resolution of Claims, as set forth in Sections 910 through 938, inclusive, of the California Civil Code. According to the Right to Repair Act, the Right to Repair Procedures will not apply with respect to a given claim if Declarant (i) elects not to use the Right to Repair Procedures, or (ii) does not comply with the requirements set forth therein. If the Claim is not resolved at the conclusion of the Right to Repair Procedures, the Claims shall be resolved in accordance with the procedures set forth below in Section 12.4.5 and 12.4.6.

12.4.5 Mediation. After complying with the Right to Repair Procedures, if applicable, or if the Claim is not subject to the Right to Repair Procedures, Builder and Claimant shall, in good faith, attempt to resolve any Claim by mediation in accordance with this Section 12.4.5. The mediation shall be conducted by a single mediator employed or engaged by JAMS pursuant to its then current JAMS Rules. The mediation shall be held in the County or such other place as is mutually acceptable to the parties. Declarant shall have the right to include other persons or entities, including insurance carrier representatives and Declarant Parties in the mediation proceedings. The mediation shall be conducted in accordance with the procedures set forth below.

(a) Selection of Mediator. Declarant shall have the right to select the mediator by notifying the Claimant in writing within ten (10) business days following the date of service of the Notice of Defect Claim or Notice of Other Claim. If Builder selects the mediator, Builder shall pay any filing fees and the first four (4) hours of the mediator's fees. At the Claimant's sole option, the Claimant may agree to share the filing fees and the fees of the mediator equally with Builder. If the Claimant so agrees, then the Claimant and Builder shall jointly select the mediator. If the parties cannot agree on a mediator, JAMS shall select the mediator. No person with any financial or personal interest in the mediation's result shall serve as a mediator, except by the written consent of the parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

(b) Fees and Expenses. The expenses or fees of any witnesses called by a party shall be borne solely by that party. The remainder of the total fees and costs incurred by JAMS including fees of experts retained by JAMS, if any, and expenses or fees of the mediator shall be allocated as set forth above.

(c) Failure to Participate. If either party refuses to participate in the mediation, then the other party may initiate arbitration proceedings as provided in Section 12.4.6.

(d) Mediation Hearing. The hearing(s) shall be commenced as quickly as reasonably practical in the discretion and judgment of the mediator. The parties shall cooperate in good faith with each other and with the mediator and shall provide all documents reasonably required by the mediator to be provided. Without mutual agreement of the Claimant and Builder, the mediation shall not exceed four (4) hours.

(e) No Award of Attorneys' Fees. No party shall be entitled to an award of its attorneys' fees. Nothing herein shall be construed to modify or abrogate any duty to defend and/or indemnify another party pursuant to the terms of a contract between any such parties. The mediator shall issue his or her written determination within thirty (30) Business Days after the close of the mediation hearing(s).

(f) Confidentiality. The entire mediation proceeding shall be maintained in the strictest confidence and documentary or demonstrative evidence or testimony introduced or revealed to the mediator or other party during the mediation shall be inadmissible in any subsequent proceeding including litigation, arbitration and judicial reference. The provisions of California Evidence Code Section 1115 et seq. shall be applicable to the mediation.

(g) Initiation of Arbitration. If the Claim is not resolved through mediation, either party may initiate arbitration proceedings as provided in Section 12.4.6 below.

12.4.6 Mandatory Binding Arbitration. Except as otherwise provided herein, all Claims not resolved under the Right to Repair Procedures or not subject to the Right to Repair Procedures shall be resolved by neutral, binding arbitration governed by the Federal Arbitration Act (9 U.S.C. §§1-16) ("**Federal Act**") and not by any court action except as provided for judicial review of arbitration proceedings under the Federal Act. The construction of the Improvements of the Community involved interstate commerce and therefore the arbitration procedures specified in this Section are to be interpreted and enforced as authorized by the Federal Act, which is designed to encourage use of alternative methods of dispute resolution that avoid costly and potentially lengthy court proceedings. Each Residence and other portions of the Community were constructed with materials and products manufactured throughout the United States which have been shipped to the Community for installation and involved communications by interstate mail and telephone with out of state manufacturers, design professionals, contractors and their employees. The shipment of such materials and products across state lines cause the products and materials to enter into the stream of interstate commerce and become subject to the Interstate Commerce Clause (Article I, Section VIII of the United States Constitution) and ensuing federal laws. Interpretation and application of the procedures set forth in this Section shall conform to any applicable Federal court rules and decisions interpreting and applying the Federal Act. The arbitration proceedings ("**Proceedings**") shall be conducted pursuant to the Federal Act and, to the extent not inconsistent, the procedures set forth in this Section. In addition, except as set forth herein, and to the extent it is not inconsistent with the Federal Act, the arbitration shall be conducted pursuant to Title 9 of the California Code of Civil Procedure (Section 1280 et seq.); provided, however, Code of Civil Procedure Section 1281.2(c) shall not be applicable to permit the court to delay or refuse to order arbitration. References to California procedural law are for guidance only and shall not be construed as a waiver of any rights or duties of the parties under the Federal Act or the right of the parties to have the procedures set forth herein interpreted and enforced under the Federal Act. If any party seeks review by a court of the enforceability of any of the procedures set forth or

referenced herein (notwithstanding the provisions herein making that issue one to be resolved by the arbitrator), the exclusive jurisdiction and venue for any such review shall be the Superior Court for the County.

(a) Agreement to Arbitrate. The Claimant Parties agree to resolve each and every Claim exclusively through binding arbitration in the County which the Property is located.

(b) Waiver of Trial by Judge or Jury. By agreeing to resolve all Claims through binding arbitration, the Claimants, Declarant, and the Declarant Parties each give up the right to have their respective claims and defenses decided by a judge or a jury. All claims and defenses shall instead be decided by the arbitrator, or by the appeal arbitrator(s), if applicable.

(c) Rules Applicable to All Cases. The Proceedings will be conducted by JAMS in accordance with the JAMS Rules in effect as of the initiation of the arbitration, as supplemented by the provisions set forth below. If the JAMS Rules have been repealed or replaced at the time the arbitration claim is filed, the JAMS' rules then most applicable to residential construction will apply. The following supplemental rules shall apply to all Proceedings and shall govern in the event of a conflict between the rules set forth below and the JAMS Rules. Should JAMS cease to exist as such, then all references to JAMS shall be deemed to refer to its successor or, if there is no successor, to the American Arbitration Association, in which case its commercial arbitration rules shall be used and the parties shall agree to an alternative arbitrator or have a court appoint a new arbitrator whose experience and training in construction arbitration is similar to that of an JAMS-trained arbitrator.

(d) Qualifications of Arbitrators. The Proceeding shall be conducted by one (1) qualified arbitrator selected in accordance with the JAMS Rules. The term "qualified" shall mean a retired judge who has experience with the laws governing residential real estate development and construction or an attorney who has actively practiced law in California for at least fifteen (15) years and who has experience with the laws governing real estate development and construction.

(e) Appointment of Arbitrator. The arbitrator to preside over the Claim shall be selected in accordance with the JAMS Rules, but no later than sixty (60) days after a notice of claim is filed.

(f) Preliminary Procedures. If state or federal law requires a Claimant or Involved Party to take steps or procedures before commencing an action in court, then the Claimant or Involved Party must take such steps or follow such procedures, as the case may be, before commencing the arbitration. For example, nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code Sections 6000, 6100 or 6150.

(g) Rules of Law. The arbitrator must follow California substantive law (including without limitation, the California Evidence Code and the application of any statutes of limitations and/or statutes of repose to the Proceedings). The arbitrator shall be authorized to provide all recognized remedies available at law or equity for any cause of action.

(h) Statutes of Limitation. Except for procedural issues, and to the extent not inconsistent with the Federal Act, the Proceedings, as well as the arbitrator and, the ultimate decisions of the arbitrator shall be subject to and bound by existing California case and statutory law including, but not limited to, applicable statutes of limitation and statutes of repose established in the Right to Repair Act or by common law.

(i) Participation By Other Parties. Claimant and Declarant each have the sole and absolute right, in its discretion, to join any person or entity who is not a party to the Proceedings (including without limitation any Declarant Party) if the presence of such person or entity is required or is necessary for complete relief to be accorded in the Proceedings or if the interest or responsibility of such person or entity in the Claim is not insubstantial. The parties shall cooperate in good faith and shall diligently perform such acts as may be necessary to ensure that all necessary and appropriate parties are included in the Proceedings.

(j) Motions and Remedies. The arbitrator shall have the power to hear and dispose of motions, including motions relating to provisional remedies, demurrers, motions to dismiss, motions for judgment on the pleadings and summary judgment and/or adjudication motions, in the same manner as a trial court judge. In addition, the arbitrator shall have the power to summarily adjudicate issues of fact or law, including the availability of remedies, even if the issue adjudicated could dispose of an entire cause of action or defense. The arbitrator shall have the power to grant provisional remedies including preliminary injunctive relief. Prior to the selection of the arbitrator, any party shall have the right to petition the Superior Court of the County for any necessary provisional remedies. However, after obtaining any provisional remedies (pending selection of the arbitrator) the entire matter shall be referred to JAMS for all purposes and the Superior Court shall have no further jurisdiction to monitor or enforce the provisional remedies or to make further determinations or awards or to issue additional provisional remedies. The arbitrator shall have the sole power to enforce, extend, modify or vacate any such provisional remedies.

(k) Discovery. All discovery shall be permitted by the arbitrator at the arbitrator's reasonable discretion upon a showing of good cause or based on the agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(l) Full Disclosure. No party shall be entitled to bring any motion to exclude or limit the facts or evidence to be submitted to the arbitrator. The initiating party shall be the first to disclose all of the following, in writing, to each other party and to the arbitrator: (a) an outline of the issues and its position on each such issue; (b) a list of all witnesses the party intends to call; and (c) copies of all written reports and other documentary evidence, whether written or not or contributed to by its retained experts (collectively "**Outline**"). The initiating party shall submit its Outline to each other party and the arbitrator within thirty (30) days of the final selection of the arbitrator. Each responding party shall submit its written response as directed by the arbitrator. If the Claim involves a Construction Defect Claim, then the Claimant shall be the first party to submit its written Outline, list of witnesses, and reports/documents and shall include a detailed description of the nature and scope of the alleged violation(s), its proposal for repair or restoration, all repairs made to date and an estimate of the cost of repair/restoration together with the calculations used to derive the estimate.

(m) Measure of Damages. Any damages awarded shall be limited to the extent required by Chapter 5 of the Right to Repair Act and other applicable provisions of California law and must be specified in the findings of the arbitrator. If any damages are awarded to a Claimant in any other cause of action not covered by this Section, the damages awarded pursuant to this Section shall be reduced by the amounts recovered in such other causes of action. Declarant Parties shall not be responsible for, and shall be excused from, any obligation, damage, loss or liability to the extent that such Declarant Parties can demonstrate any of the affirmative defenses set forth in California Civil Code Section 945.5.

(n) Hearing. The Proceedings shall be held in the County and shall be conducted as promptly as possible after giving due consideration to the complexity of the issues, the number of parties and necessary discovery and other relevant matters. The Proceedings shall be conducted as informally as possible. California Evidence Code Section 1152 et seq. shall apply for the purpose of excluding offers, compromises, and settlement proposals from evidence, unless there is agreement by all parties as to admissibility. The arbitrator shall be the sole judge of the admissibility of and the probative value of all evidence offered and is authorized to provide all legally recognized remedies whether in law or equity, except as otherwise limited in this Section. The cost of an interpreter shall be borne by the party requiring the services of the interpreter in order to be understood by the arbitrator and the expenses of witnesses shall be borne by the party producing such witnesses.

(o) Decision. The decision of the arbitrator shall be binding on the parties and may be entered as a judgment in any court of the State of California that has jurisdiction and venue. The arbitrator shall (a) try all issues of both fact and law, and (b) issue a written statement of decision consistent with that described in California Code of Civil Procedure Section 643 which shall specify the facts and law relied upon in reaching the arbitrator's decision within twenty (20) days after the close of testimony. If the amount at controversy in the Claim is greater than Two Hundred Fifty Thousand Dollars (\$250,000), the arbitrator shall cause a complete record of all Proceedings to be prepared similar to those kept in the Superior Court, including a stenographic record of the Proceedings, which record shall remain confidential except as may be necessary for post-hearing motions and appeals. The cost of the record shall be borne one-half (½) by the Claimant and one-half (½) by Declarant Parties, regardless of the outcome. Should any party refuse or fail to pay its pro-rata share, the remaining parties may pay such share, and the party or parties which pay such extra share shall be awarded such extra costs by the arbitrator in the arbitrator's decision.

(p) Attorney Fees and Costs. Declarant shall advance all initial fees and expenses to commence the Proceeding. If Declarant is the prevailing party in the arbitration, the arbitrator may, in his or her discretion and only to the extent permitted by law and the JAMS Minimum Standards of Procedural Fairness, direct the Claimant to reimburse Declarant for such Claimant's pro rata share of the JAMS fee and arbitrator's fee advanced by Declarant. The arbitrator shall not award attorneys' fees to any party and the parties shall each be solely responsible for their own attorneys' fees. Nothing herein shall be construed to modify or abrogate any duty to defend and/or indemnify a third party pursuant to the terms of a contract between any such parties.

(q) Procedure for Appeal of Certain Cases. In any arbitration in which a claim or arbitration award of Claimant or Involved Party exceeds Five Hundred Thousand

Dollars (\$500,000) in value, Claimant and Involved Party hereby adopt and agree to the JAMS Optional Appeal Procedure. The following additional rules will supplemental the JAMS Optional Appeal Procedure or any appeal procedures of the Alternative Arbitration Service, as applicable, and shall govern in the event of a conflict between the following rules and the JAMS Optional Appeal Procedure.

(r) Right of Appeal. There shall be no right to appeal unless the oral evidence received by the arbitrator was preserved in a manner such that it can be converted to an accurate and reliable written transcript.

(s) Appellate Panel. An appeal shall be decided by one neutral appeal arbitrator unless either party, within the time permitted for the appointment of the appeal arbitrator, elects to have the appeal decided by a panel of three (3) appeal arbitrators. Any party who elects to have an appeal decided by a panel of three (3) appeal arbitrators agrees to be solely responsible for the cost of having two (2) additional appeal arbitrators. The sole appeal arbitrator, or at least one member of any panel of three (3) arbitrators, shall have prior experience as a member of an appellate panel of the California Court of Appeal.

(t) Issues on Appeal. The only issues which may be considered on appeal are issues covered under the JAMS Rules for appellate procedures.

(u) Expenses and Costs on Appeal. The fees charged by JAMS or the Alternative Arbitration Service and the appeal arbitrator(s) shall be advanced by Declarant as provided above. The party who files the appeal must, at its sole expense, provide JAMS or the Alternative Arbitration Service and all non-appealing parties with a certified copy of the hearing transcript, and must provide JAMS with copies of all documentary evidence and all other tangible evidence received by the arbitrator. If more than one party appeals, the appealing parties must share equally the cost of the transcript and copies of all other documentary and tangible evidence received by the arbitrator. The appeal arbitrators may, within thirty (30) days of their determination award costs of the nature provided in the Federal Rules of Appellate Procedure. If Declarant is the prevailing party on appeal, the appeal arbitrator(s) may, in his, her or their discretion and only to the extent permitted by law and JAMS Minimum Standards of Procedural Fairness, include all or part of the JAMS fee, or the Alternative Arbitration Service, and arbitrator's fee advanced by the Declarant in the award of costs on appeal.

(v) New Evidence. The appeal arbitrators must not receive new evidence. The appeal arbitrators must make their decision based only on the evidence that was presented to the arbitrator, except that the appeal arbitrators may visit any site involved in the Claim.

12.4.7 CLASS ACTIONS NOT AVAILABLE. EACH OWNER AND THE ASSOCIATION HAVE AGREED TO WAIVE THE RIGHT FOR ANY CLAIM TO BE COMMENCED, HEARD OR RESOLVED AS A CLASS ACTION. EACH OWNER, BY ACCEPTANCE OF FEE TITLE TO A RESIDENTIAL LOT AND THE ASSOCIATION BY ACCEPTANCE OF FEE TITLE TO ANY ASSOCIATION PROPERTY AND/OR BY PERFORMANCE OF THE OBLIGATIONS FOR THE MAINTENANCE OF THE ASSOCIATION MAINTENANCE AREAS AGREE NOT TO ASSERT ANY CLASS

ACTION OR REPRESENTATIVE ACTION CLAIMS AGAINST THE OTHER OR AGAINST ANY DECLARANT OR DECLARANT PARTY IN MEDIATION, ARBITRATION OR OTHERWISE, AND AGREE THAT IT IS THE EXPRESS INTENT OF EACH PARTY THAT CLASS ACTION AND REPRESENTATIVE ACTION PROCEDURES NOT BE ASSERTED OR APPLIED WITH RESPECT TO ANY CLAIM.

12.4.8 JURY, DISCOVERY AND APPEAL NOT AVAILABLE. THE OBLIGATIONS ESTABLISHED BY ARTICLE 12 TO SUBMIT CLAIMS TO NEUTRAL ARBITRATION ELIMINATES ALL RIGHTS WHICH AN INVOLVED PARTY MIGHT POSSESS TO HAVE A CLAIM LITIGATED IN A COURT OR JURY TRIAL. NO INVOLVED PARTY SHALL HAVE ANY JUDICIAL RIGHTS TO DISCOVERY OR APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS ARTICLE 12. IF DECLARANT OR ANY CLAIMANT REFUSES TO SUBMIT TO ARBITRATION THEY MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE.

12.4.9 Agent for Notice. Pursuant to California Civil Code Section 912(e), notice is hereby given by Declarant that Declarant has designated the following person or entity to act as Declarant's agent ("Declarant's Agent for Notice"), whose address is set forth below:

Tricon Residential
Attention: Claims Administrator
15661 Red Hill Avenue
Tustin, CA 92780

If Declarant changes the identity or address of Declarant's Agent for Notice in the future, Declarant will notify the Secretary of State of the State of California (or the successor agency then responsible for monitoring agents for service of process) of any such change and the updated identify and address of Declarant's Agent for Notice may be obtained by inquiry to the Secretary of State of the State of California (or the successor agency then responsible for monitoring agents for service of process).

California Secretary of State
Special Filings Unit
P.O. Box 942877
Sacramento, CA 94277
or by telephone at (916) 653-3984

12.5 Covenant Regarding Proceeds. If the Association or any Owner prevail in a 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.

12.6 Approval of Amendments. No amendment may be made to Sections 12.4, 12.5, 12.6 without the prior written approval of Declarant.

ARTICLE 13
DURATION AND AMENDMENT

13.1 **Duration.** This Declaration shall continue in full force 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 including "material amendments" and an "extraordinary action" (both defined below) 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 an amendment by Declarant or by the Board, as described in Sections 13.2.6 or 13.2.7 respectively) or an extraordinary action must be (a) adopted by the vote, in person or by proxy, or written consent of Owners representing not less than (1) sixty-seven percent (67%) of the voting power of each Class of the Association and (2) sixty-seven percent (67%) of the Association's voting power represented by Owners other than Declarant, provided that the specified percentage of the Association's voting power necessary to amend a specific provision of this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under the provision that is the subject of the proposed amendment or extraordinary action, and (b) approved by the requisite percentage of First Mortgagees of matters described in Sections 13.2.2(a) and 13.2.2(b) below, and (2) termination of the Declaration as described in Section 13.2.3. In addition to the foregoing, until the conversion of the Class B membership to Class A, all material amendments and extraordinary actions must have the approval of VA, if VA has guaranteed any Mortgages secured by Condominiums in the Community.

13.2.2 **Mortgagee Consent.** In addition to the consents required by Section 13.2.1, a Mortgagee Majority must approve any material amendment to this Declaration and any Supplemental Declaration or extraordinary action, as defined below:

(a) **Material Amendments.** Material amendments consist of any amendment adding, deleting or modifying any provision concerning any of the following:

- (i) Assessment basis or Assessment liens;
- (ii) Any method of imposing or determining any charges to be levied against an Owner;
- (iii) Any scheme of regulation or enforcement or standards for maintenance, architectural design or exterior appearance of Improvements on the Units (as applicable);
- (iv) The addition, annexation or withdrawal of land to or from the Community;
- (v) Voting rights;

(vi) Increases in Assessments that raise the existing Assessment by more than 25%, Assessment liens or the priority of Assessment liens;

(vii) Reductions in reserves for maintenance, repair and replacement of the Association Property;

(viii) Responsibility for maintenance and repairs;

(ix) Reallocation of interest in the Condominium Common Area, reallocation of liability for Common Expenses, or reallocation of rights to the use of Association Property;

(x) Redefinition of any Unit boundaries;

(xi) Convertibility of Units into Association Property or vice versa;

(xii) 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.

(xiii) Imposing restrictions on leasing or sale of Units;

(xiv) Restoration or repair of the Community (after damage or partial condemnation) in a manner other than that specified in this Declaration; or

(xv) Any amendment to a provision which is for the express benefit of Mortgagees, including:

(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 Mortgages.

(b) Any amendment which would require a Mortgagee after it has acquired a Unit 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 Unit not being separately assessed for tax purposes.

(d) Any amendment which would or could result in partition or subdivision of a Unit in any manner inconsistent with this Declaration.

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

(b) ***Extraordinary Actions.*** Extraordinary actions consist of the following:

(i) Merging or consolidating the Association (other than with another non-profit entity formed for purposes similar to the Association);

(ii) Abandoning, partitioning, encumbering, mortgaging, conveying, selling, or otherwise transferring or relocating the boundaries of Association Property (except for granting easements which are not inconsistent with or which do not interfere with the intended Association Property use, dedicating Association Property as required by a public authority; limited boundary-line adjustments made in accordance with the provisions of this Declaration, or transferring Association Property pursuant to a merger or consolidation with a non-profit entity formed for purpose similar to the Association;

(iii) Making capital expenditures (other than for repair or replacement of existing Improvements) during any period of 12 consecutive months costing more than 20 percent of the annual operating Budget; or

(iv) Any decision by the Association to establish self-management if professional management had been required previously by the Governing Documents or by a Mortgagee majority or a majority vote of the Owners.

13.2.3 Amendment of Right to Repair Law Provisions. Neither this Section 13.2.3 nor Sections 1.1.43, 1.1.67, 1.1.68, 2.1, 2.3, 2.4, 2.5, 3.38, 4.2.7, 4.2.19, 12.1.7, 12.4, 13.2.6, or 15.7 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 Right to Repair Law (including tolling periods). References herein to Sections include their respective subparts.

13.2.4 Termination Approval. Termination of this Declaration or the status of the Community as a "condominium project" as defined in California Civil Code Section 4125 requires approval of (a) sixty-seven percent (67%) of the First Mortgagees, (b) the Owners as provided in Section 13.2.1, and (c) 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 Right to Repair Law); provided however, in the event a material portion of the Community is affected by either damage or destruction (as described in Article 9) or a taking (as described in Article 10), then any election to terminate the status of the Community as a "condominium project" as defined in California Civil Code Section 4125 requires approval of a Mortgagee Majority and the Owner and Declarant approvals described above.

13.2.5 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 First Mortgagees must include a certification that the requisite approval of such First Mortgagees was obtained or deemed given in accordance with Section 11.2.3.

13.2.6 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 may unilaterally amend or terminate a Supplemental Declaration for any purpose, until the first Close of Escrow in the real property affected by the Supplemental Declaration to be amended or terminated. Amendment or termination shall not be effective until Declarant has Recorded in the Official Records an instrument signed and acknowledged by Declarant.

(b) **Minor Corrections.** Notwithstanding any other provisions of this Article, Declarant (as long as Declarant, an SFR Owner or Tricon Affiliate owns any portion of the Community) may unilaterally amend this Declaration or a Supplemental Declaration by Recording a written instrument signed by Declarant to:

(i) Conform this Declaration or a Supplemental Declaration to the rules, regulations or requirements of FHFA, VA, FHA, DRE, Fannie Mae, Ginnie Mae, Freddie Mac or the County;

(ii) Amend, replace or substitute any exhibit to correct typographical or engineering errors;

(iii) Include any exhibit that was inadvertently omitted at the time of Recording;

(iv) Comply with any County, State, or Federal laws or regulations;

(v) Correct typographical errors in any provision of this Declaration or a Supplemental Declaration;

(vi) Supplement this Declaration or a Supplemental Declaration with provisions which pertain to rights and obligations of Declarant, the Association or Owners arising under the Right to Repair Law; and

(vii) Change any exhibit or provision of this Declaration or a Supplemental Declaration to conform to as-built conditions.

Nothing in this Section 13.2.6 may be amended or terminated 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 Right to Repair Law (including tolling periods).

13.2.7 Minor Corrections by the Board. The Board may amend this Declaration or a Supplemental Declaration for the reasons stated in clauses (2), (3), (4), (5) or (8) of Section 13.2.6(b) 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 Right to Repair 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 Right to Repair Law, this Declaration or any Supplemental Declaration, or for any amendment by the Board concerning matters discussed in Articles 3 or 15.

ARTICLE 14 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 Unit, 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 Unit. 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 Unit 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 Unit or other Unit in the Community or execution of a real property sales contract therefor, the Owner of the Unit or other Unit shall provide to the purchaser copies of the Governing Documents listed in California Civil Code Section 4525.

ARTICLE 15
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 no longer owns any portion of the Community, Declarant has the right, without obtaining the approval of the Association, to (a) subdivide or re-subdivide the portions of the Community owned by Declarant, (b) complete or modify Improvements in the Association Property, or in any portion of the Community that is owned or leased solely or partially by Declarant, (c) alter Improvements and Declarant's construction plans and designs, (d) modify Declarant's development plan for the Community, including reshaping the Units and Association Property, and constructing dwellings of larger or smaller sizes, values, and of different types, (e) modify, extend, postpone or terminate completion of the Community, for any purpose, including changed economic conditions, changes in Declarant's business plans or other factors determined by Declarant in its sole discretion, and (f) construct additional or different Improvements, all as Declarant considers advisable in the course of development of the Community. Declarant may temporarily erect barriers, close off and restrict access to portions of the Association Property as reasonably necessary to allow Declarant to exercise the rights reserved in this Section so long as an Owner's access to that Owner's Unit is not eliminated. For so long as FHA is insuring or VA is guaranteeing Mortgages in the Community, such changes must be approved by FHA or VA, as applicable.

15.2 Sales, Leasing and Marketing Rights. Declarant shall have the following rights related to sales, leasing and marketing, all of which may be exercised unilaterally by Declarant in Declarant's sole discretion. The rights reserved in this Section will terminate on the date the Rental Period has expired and the last Close of Escrow for the sale of a Unit in the Community has occurred.

15.2.1 Marketing, Leasing and Sales Facilities. Declarant'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, Units or mobile homes owned or leased by Declarant in the Community as model home complexes, design centers, welcome centers, home-finding centers, real estate sales offices or leasing offices, all as may be reasonably necessary to conduct the business of completing construction, marketing and disposing of the Community by sale, resale, lease or otherwise. Furthermore, nothing in the Governing Documents shall be deemed to limit, and no Owner, nor the Association shall interfere with the rights of prospective purchasers, sales agents, or Declarant to use any and all portions of the Association Property for access to the marketing, leasing and sales facilities of Declarant. The exercise of the foregoing reserved rights shall be exercised in a way not to unreasonably interfere with the use and enjoyment thereof by the Owners or their Families, tenants and invitees of an Owner's Unit or the Association Property, and such reserved rights shall automatically terminate on the date of the last Close of Escrow for the sale of a Unit in the Community, at which time Declarant shall remove the temporary structures and/or restore any permanent structures used by Declarant to their intended residential or Association Property use and appearance.

15.2.2 Use of Association Property. Declarant and its prospective purchasers of Condominiums are entitled to the nonexclusive use of the Association Property without further cost for access, ingress, egress, use or enjoyment, to (a) show the Community to prospective purchasers and/or tenants, and (b) dispose of the Community as provided in this Declaration. Declarant, its employees, agents and prospective purchasers and tenants are also entitled to the nonexclusive use of Private Streets, drives and walkways for ingress, egress and vehicle parking as necessary in connection with the marketing and sale of the Condominiums.

15.3 Creating Additional Easements. At any time before the Close of Escrow for a Unit, Declarant reserves the unilateral right to establish on that Unit additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as Declarant determines are reasonably necessary to the proper development and disposal of the Community.

15.4 Architectural Rights. The provisions of Article 5 shall not apply to any Improvements installed by Declarant or a Tricon Affiliate or repaired by Declarant or a Tricon Affiliate pursuant to any Limited Warranty, or Civil Code Section 895, et seq., (if any) and neither the Board nor the Design Review Committee shall have any rights of review or approval with respect thereto. The design review requirements shall also not apply to any Improvements installed by an SFR Owner with the prior written consent of Declarant. 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 Developer Exemption. Declarant and Tricon Affiliates, and any Condominiums owned by Declarant or any Tricon Affiliate, are 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 Supplemental Declaration or in any other Governing Documents, except to the extent that a particular provision expressly includes Declarant or a Tricon Affiliate, as applicable, 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 to Article. No amendment may be made to this Article without the prior written approval of Declarant for so long as Declarant, a Tricon Affiliate or an SFR Owner owns any portion of the Community. In addition, no amendment to leasing restrictions, nor shall additional leasing restrictions be imposed without the prior written approval of Declarant, each SFR Owner and each Tricon Affiliate.

15.8 Cooperation and Participation.

15.8.1 Notice of Transfers; Other Notices. Until 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 by the Association under the Right to Repair Law (including any tolling periods), the Association shall provide Declarant with written notice of the transfer of any

Condominium 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.

15.8.2 **Observation of Open Meetings.** In furtherance of Declarant's rights and the performance of the obligations of Declarant, the Association and Owners under the Right to Repair Law, Declarant shall have the right to observe and speak at open meetings of the Board in accordance with this Section 15.8.2.

(a) **Attendance and Limited Participation.** Commencing on the date on which Declarant no longer has a representative on the Board, and continuing until 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 by the Association under the Right to Repair Law (including any tolling periods):

(i) 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 was an Owner;

(ii) Declarant shall be entitled to have its representatives attend all Open Meetings and speak (during the Owner comment period) on matters governed by the Right to Repair Law, including maintenance and repair of Association Property and the Condominiums and Improvements thereon; and

(iii) Declarant representatives shall be entitled to receive copies of the minutes, proposed minutes and summary minutes of all Open Meetings and meetings of members, as well as copies of books, financial records, Governing Documents, or maintenance records, upon request for, and reimbursement of, the actual costs to copy and mail such materials.

(b) **Rights of Board.** Notwithstanding the foregoing, the Board shall have the unilateral right to exclude Declarant and its representatives from any Open Meeting or portion thereof, and to decline to provide Declarant or its representatives with minutes, proposed minutes or summary minutes if, in the good faith judgment of the Board, the presence of Declarant or its representatives at an Open Meeting, or delivery of minutes to Declarant or its representatives would not be in the best interest of the Association. Such determination may be made if:

(i) the presence of Declarant or its representatives at an Open Meeting or portion thereof would adversely affect the attorney-client privilege between the Association and its counsel; or

(ii) Declarant or its representatives would have access to confidential information received or developed by the Association or its consultants.

(c) **Further Limitations.** This Section creates no right in representatives of Declarant to attend executive sessions of the Board or to participate in deliberations by the Board. Declarant representatives shall attend any Open Meeting they are permitted to attend under this Section 15.8.2 in an observer capacity only, and they shall not have any right to vote on matters coming before the Board.

15.9 Declarant Approval of Actions.

15.9.1 **General Rights.** Until Declarant, an SFR Owner or a Tricon Affiliate no longer own a portion of the Community, Declarant's prior written approval is required for any amendment to the Governing Documents which would impair or diminish Declarant's right to complete the Community or sell or lease Condominiums therein.

15.9.2 **Limit on Actions.** Until the end of all applicable statutes of limitations or repose for the filing of a complaint or suit or other legal remedies against Declarant under the Right to Repair 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 levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Association Property by Declarant;
- (c) Any significant reduction of Association maintenance or other services; or
- (d) Any modification or termination of any provision of the Governing Documents benefiting Declarant.

15.10 **Marketing Name.** The Community shall be marketed under the general name "Tricon Winchester." Declarant may change the marketing name of the Community at any time in Declarant's sole discretion. Declarant shall notify DRE of any change in or addition to the marketing name or names of the.

ARTICLE 16 COUNTY REQUIRED PROVISIONS

16.1 **County of Riverside Required CC&R Provisions.** Per the Conditions of Approval, the County has required the following provisions to be included in this Declaration:

16.1.1 **Mandatory Provisions.** Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

- (a) This Declaration shall remain in force for a minimum of sixty (60) years.
- (b) The Declaration shall provide for the establishment of a property owners' association comprised of the owners of each individual Condominium (the "*Association*").
- (c) The Association established herein shall, if dormant, be activated, by incorporation or otherwise, at the request of the County, and the Association shall unconditionally accept, upon the County's demand, title to all or any part of the "common area"

more particularly described in Section 1.1.6 of this Declaration and depicted on *Exhibit F* attached hereto, all in accordance with the Declarant's development plan on file with the California Department of Real Estate (the "*Development Plan*"). The decision to require activation of the Association and the decision to require that the Association unconditionally accept title to the "common area" shall be at the sole discretion of the County; provided such incorporation and acceptance of title is in accordance with the Development Plan.

(d) In the event that the "common area", or any part thereof, is conveyed to the Association, the Association shall thereafter own such "common area", manage and continuously maintain such "common area" and shall not sell or transfer the "common area" or any part thereof, absent the prior written consent of the Planning Director of the County or the County's successor-in-interest.

(e) The Association shall have the right to assess the owners of each individual lot or unit for the reasonable cost of maintaining such "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.


(f) 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 Association Property established pursuant to this Declaration.

(g) In the event of any conflict between this Declaration and the Articles, the Bylaws, or the Association Rules and Regulations, if any, this Declaration shall control.

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

This Declaration is dated for identification purposes July 25, 2023.

FPG TRICON WOODS PROPERTY, LLC,
a Delaware limited liability company

By: 
Print Name: BRYAN BELGERON
Title: V.P. FORWARD PLANNING

By: _____
Print Name: _____
Title: _____

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 Orange

On July 25 2023, before me, Brittany A. Stilwagner, Notary Public
(here insert name and title of the officer)

personally appeared Bryan Bergeron

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature

(Seal)



EXHIBIT A
ARTICLES OF THE ASSOCIATION

[Attached Hereto]

ARTICLES OF ASSOCIATION

OF

TRICON WINCHESTER COMMUNITY ASSOCIATION

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

TWO: This Corporation is an unincorporated nonprofit association organized under Title 3 of California Corporations Code at Section 18000, et seq. The purpose of this Association is to engage in any lawful act or activity, other than credit union business, for which an unincorporated association may be organized under such law.

THREE: The Corporation's initial 12 of process is Bryan Bergeron, whose business address is 27271 Las Ramblas, Suite 100, Mission Viejo, CA 92691.

FOUR: The Corporation's street and mailing address is 27271 Las Ramblas, Suite 100, Mission Viejo, CA 92691.

FIVE: The Corporation shall have and exercise any and all powers, rights and privileges which an unincorporated association established under Title 3 of the California Corporations Code may now or hereafter have or exercise, and which an unincorporated association is entitled to under the laws of the State of California, including without limitation, Section 6528 of the California Civil Code, 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 purposes described in the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Tricon Winchester, recorded or to be recorded with the Riverside County Recorder, in the Bylaws of the Corporation, in Section 23701t of the California Revenue and Taxation Code, and in Section 528 of the Internal Revenue Code, all as amended from time to time.

SIX: The classes of Membership and the voting and other rights and privileges of Members shall be as set forth in the Bylaws. So long as there are two classes of Membership, amendment of these Articles of Association 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, amendment of these Articles of Association shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Association, (ii) 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.

SEVEN: The Corporation has no managing agent.

The undersigned, who is the organizer of the Corporation, has executed these Articles of Association on _____, 20__.

Bryan Bergeron, Organizer

EXHIBIT B
BYLAWS OF THE ASSOCIATION

[Attached Hereto]

TRICON WINCHESTER COMMUNITY ASSOCIATION
OF
BYLAWS

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BYLAWS

OF

TRICON WINCHESTER COMMUNITY ASSOCIATION

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BYLAWS
OF
TRICON WINCHESTER 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 TRICON WINCHESTER (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.

1.2 **NAME AND PRINCIPAL OFFICE.** The name of the Association is Tricon Winchester 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 condominium development known as Tricon Winchester ("*Community*"), which is located in the unincorporated area of the County of Riverside. All Persons who use the facilities of the Community in any manner are subject to the terms and provisions of these Bylaws, the Declaration, and the other Association Governing Documents of the Community. Use of any Condominium 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.** The Association's property, business and affairs shall be governed and managed by a Board of Directors composed of no fewer than three (3) nor more than five (5) persons elected or appointed at the first annual meeting. Beginning with the first annual meeting of the Owners, the initial authorized number of Directors will be fixed at three (3). The authorized number of Directors may be adjusted within the range stated above with the approval of the Board from time to time without having to amend these Bylaws. The size of the Board may be increased beyond five (5) Directors by 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 either: (a) an individual Owner (subject to Section 2.2.4 below) who meets the candidacy and incumbency requirements in Sections 2.2.1 and 2.2.2 below; or (b) as long as Declarant owns any portion of the Community or Annexable Territory, an employee or agent of Declarant (who need not be an Owner); or (c) appointed to office by exercise of the Board Appointment Right (as defined in Section 4.4.4 of the Declaration). Such appointee need not be an Owner.

2.2.1 Candidacy Requirements for Owners. Subject to disqualification under Section 2.2.2(a) below, Owners who meet the following criteria are qualified to be nominated and elected to the Board of Directors:

(a) The Owner is an Owner of a Condominium within the Community at the time of nomination;

(b) The Owner, if elected, would not be serving on the Board at the same time as another Person who holds a joint ownership interest in the same Condominium and the other Person is either properly nominated for the current election or is an incumbent Director; and

(c) The Owner must be not more than two (2) months in arrears in the payment of any Assessments (which are consumer debts subject to validation) as of the deadline for nomination for election to the Board of Directors; provided however, that the Owner shall not be disqualified if either of the following circumstances is true:

(i) The Owner has paid the Assessment(s) under protest pursuant to California Civil Code Section 5658; or

(ii) The Owner has entered into a payment plan with the Association for such delinquent Assessment(s) pursuant to California Civil Code Section 5665.

2.2.2 Incumbent Requirements for Owners. 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 Association Governing Documents and correct, within five (5) days after receipt of notice, any violation of the Association Governing Documents for which that Director has been determined to be responsible pursuant to applicable due process requirements;

(e) 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;

(f) Remain at all times an Owner of a Condominium in the Community in good standing;

(g) 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;

(h) 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;

(i) Not be subject to disqualification pursuant to Section 2.2.3 below; and

(j) Not be more than two (2) months in arrears in the payment of any Assessments (which are consumer debts subject to validation); provided however, that the Owner shall not become disqualified to continue to serve on the Board if either of the following circumstances is true:

(i) The Owner has paid the Assessment(s) under protest pursuant to California Civil Code Section 5658; or

(ii) The Owner has entered into a payment plan with the Association for such delinquent Assessment(s) pursuant to California Civil Code Section 5665.

2.2.3 Disqualification due to Criminal Conviction. A Director must disclose any criminal convictions that may be required by the Association's fidelity bond carrier. An Owner shall be disqualified for nomination as a candidate to the Board, or, if such Owner is an incumbent Director, shall become disqualified to continue to serve on the Board, if such Owner discloses, or if the Association is aware of, or becomes aware of, a criminal conviction that would either prevent or make economically infeasible the Association's purchase of fidelity bond coverage required by California Civil Code Section 5806 or cause termination of the Association's existing fidelity bond coverage.

2.2.4 Ownership by Legal Entity. A Director must be a natural person. However, in accordance with California Civil Code Section 5105(b)(2), if title to a Condominium is held by a legal entity recognized under California law ("**Entity Owner**") that is not a natural person, the governing authority of such Entity Owner shall have the power to designate in writing to the Association one (1) natural person ("**Entity Owner Representative**") to be a member for purposes of exercising the Entity Owner's voting rights attributable to such Condominium and for qualification to serve on the Board of Directors. Notwithstanding the foregoing, for such Entity Owner Representative to be qualified for nomination and election to the Board, or to remain qualified to serve on the Board (as applicable), (a) the Entity Owner Representative shall be subject to the qualification requirements of Section 2.2.2(a) above, and (b) the Entity Owner shall be

subject to the qualification requirements of Sections 2.2.1 and 2.2.2. If the Entity Owner Representative is elected to the Board and the governing authority of the Entity Owner revokes the designation of the Entity Owner Representative in writing delivered to the Association's Board during the Entity Owner Representative's term, then the Entity Owner Representative's seat on the Board shall be deemed vacant, and the vacancy filled in accordance with Section 2.5.5 by the Board or by the Owners.

2.2.5 Disqualification for Nonpayment of Assessments. As provided in Sections 2.2.1 and 2.2.2 above, an Owner may be disqualified for the Board for nonpayment of Assessments in certain circumstances. However, pursuant to California Civil Code Section 5105(d), the Association may not disqualify an Owner for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.

2.2.6 Limitation on Power to Disqualify Candidates. The Association shall not disqualify an Owner from nomination as a candidate to the Board if such Owner has not been provided the opportunity to engage in internal dispute resolution pursuant to California Civil Code Section 5900, et seq.

2.3 ELECTION.

2.3.1 General Procedure. On the date of the first annual meeting of the Owners, the offices of the three interim Directors shall be deemed to be vacant, and the Members of the Association (including Declarant) 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. Pursuant to California Civil Code Section 5100(a)(2), the Association shall hold an election for a seat on the Board at the expiration of the corresponding Director's term and, in any event, at least once every four (4) years.

2.3.2 Nomination. The Board of Directors or a nominating committee established by the Board of Directors may propose the nomination of candidates. In addition, any Owner may nominate any other Owner or himself or herself by submitting written notice of the nomination to the Board or its nominating committee (if one is formed). The Association shall provide general notice of the procedure and deadline for submitting a nomination at least thirty (30) days before any deadline for submitting a nomination. Individual notice shall be delivered pursuant to California Civil Code Section 4040 if individual notice is requested by a member.

2.3.3 Voting. Voting shall be by secret written ballot in accordance with the procedure described in California Civil Code Section 5100, et seq. 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.

2.3.4 Special Election Requirement. So long as either (a) Declarant is entitled to exercise its Board Appointment Right (as described in the Declaration), or (b) Declarant is 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. Furthermore, until expiration of the Board Appointment Right, Declarant 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 the next highest number of votes shall be two (2) years. At the first annual meeting, Directors who are appointed by exercise of Declarant's Board Appointment Right shall be deemed to have received the highest number of votes and therefore they shall occupy the seats with three (3)-year terms of office. Thereafter, new Directors shall be elected or appointed to fill any vacancies.

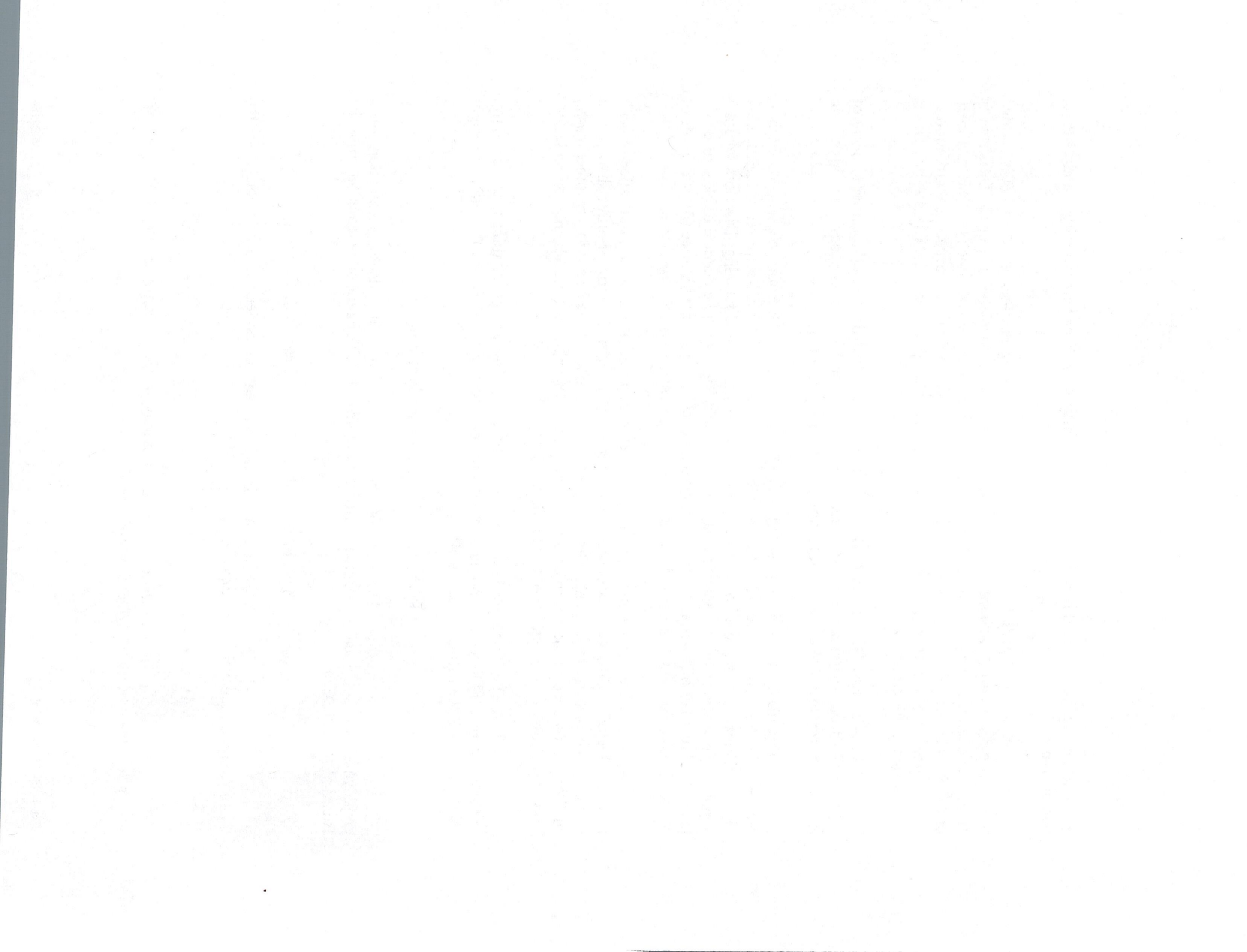
At any future election in which all Board seats are to be filled, the term of office of each Director elected to fill a vacancy created by expiration of a Director's term of office shall be two (2) years. The term of office of each Director elected or appointed to the Board for any other reason shall 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 earliest to occur of:

- (a) Removal of the Director by Declarant;
- (b) The date of the appointed Director's death, resignation from employment by Declarant or termination of employment by Declarant or resignation from the Board of Directors; or
- (c) The expiration of the Director's term of office; or
- (d) The date on which Declarant no longer owns any portion of the Community or Annexable Territory.

2.5 VACANCIES.

2.5.1 Resignation. Any Director may resign from the Board at any time by giving written notice of resignation to the Board.



2.5.2 **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.

2.5.3 **Declared Vacancies.** The Board by majority vote of Directors who meet all of the requirements for incumbent Directors in Sections 2.2.2 and 2.2.2(a) above, and any Directors who are agents or employees of Declarant, may declare vacant one or more Director seats for cause pursuant to Section 2.6.3 below.

2.5.4 **Employees and Agents of Declarant.** Notwithstanding anything in these Bylaws to the contrary, the office of any Director who is an employee or other agent of the Declarant shall be deemed to be vacant on the earliest to occur of the date on which the Director resigns from the Board, ceases to be an employee or agent of Declarant, or the date on which the Board receives notice from Declarant that the Director has been replaced by Declarant under Section 2.5.5, or has ceased to be an employee or agent of Declarant. Furthermore, on the date on which the Declarant no longer owns any portion of the Community or Annexable Territory, the offices of any Directors who are non-Owner agents of Declarant serving under clause (b) or clause (c) of Section 2.2 above shall be deemed vacant, and the vacancies filled in accordance with Section 2.5.5 by the Board or by the Owners. Provided, however, that to the extent necessary to enable the Board to continue to act and discharge its obligations, the non-Owner agents of Declarant may continue to serve as Directors until they are replaced by the independent Directors or by the Owners.

2.5.5 **Replacement.** Vacancies in elected seats on the Board caused by death, resignation, or any other reason besides 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. Any vacancy caused by the removal of a Director must be filled by a vote of the Owners. Provided, however, that notwithstanding the foregoing or anything else to the contrary in these Bylaws, vacancies arising for any reason in the seats of any Directors who are serving as agents of Declarant may be filled solely by Declarant while the Board Appointment Right is in effect. If the vacancy occurs after the Board Appointment Right has expired, then Declarant has the right to fill the vacancy with an appointee to serve the unserved remainder of the term, until the earliest to occur of:

- (a) The date on which the unserved remainder of the term expires; or
- (b) The date that is three (3) years after the date on which the Board Appointment Right expires; or
- (c) 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 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) Condominiums 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 (b) once fifty (50) or more Condominiums 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 concerning the removal of Directors, any Director elected to office solely by the votes of Owners other than Declarant pursuant to Section 2.3.4 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, or by the Board pursuant to Section 2.6.3. 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 by Board for Failure to Qualify. Except as provided in Section 2.6.2, the Board, by a majority vote of the Directors who meet the applicable qualifications to serve as a Director in Section 2.2 above, may declare vacant the office of any Director who was not appointed by Declarant or elected by the votes of Declarant if the Director fails or ceases to meet any one or more of the qualifications then applicable to the Director under Section 2.2 above. Provided, however, that so long as Declarant owns any portion of the Community or Annexable Territory, any such Directors who are agents or employees of Declarant may only be removed by Declarant.

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 any affiliate of Declarant 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 other 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 California Civil Code Section 4090 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.

(a) **Time and Place.** 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. There is no common meeting room in the Community. Therefore, the meeting place shall ordinarily be 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.

(b) **Frequency.** 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.

(c) **Notice.** 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, and for a period of ten (10) years after the Close of Escrow for the sale of the last Condominium in the Community, Declarant, 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 4900, et seq.

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 and, for a period of ten (10) years after the Close of Escrow for the sale of the last Condominium in the Community, Declarant 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 Association Property and by mail to any Member who requested notification of meetings by mail at the address requested by the Member. Notice may also be given by mail, by delivery to each Condominium, 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 or portion thereof.

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 Condominium 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.** The power but not the duty to negotiate and enter into agreements with Declarant 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