TRANSPORTATION DEPARTMENT

FORM 11 SUMMARY/ROUTING FORM

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

☐ AGREEMENT/CONTRACT	NO.:

REQUESTED BOARD DATE: 4/30/2024	CAN IT GO AT A LATER DATE: ☐YES ☐NO

☐ AMENDMENT	NO.	☐ CHANGE ORDER	NO.
☐ RESOLUTION	NO.	☐ ORDINANCE	NO.
☐ AWARD PACKAGE	☒ FINAL MAP	☐ ACQUISITION/EDA	☐ ADVERTISEMENT PACKAGE
☐ OTHER:		SUPERVISORIAL DISTRICT: 1	

PROJECT/SUBJECT:
FINAL TRACT MAP NO: 31818-1 (Schedule "A")
DESCRIPTION: APPROVAL OF FINAL TRACT MAP AND IMPROVEMENT AGREEMENTS

CONTRACTING PARTY: GINA NESS	W.O. NO.: FTM3181801 (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 THE IMPROVEMENT AGREEMENT AND RETURNS THE 2 REMAINING COPY TO TRANSPORTATION.
THE FINAL TRACT MAP AND ONE COPY OF CC&R'S FOR TRACT 31818-1 ARE TO BE DELIVERED TO THE COUNTY RECORDER.

MINUTETRAQ (MT) NO:	TRANS TRACKING ID:	DATE RECEIVED:	INITIALS:
24793			

BOARD AGENDA DATE:	**BOS ITEM NUMBER:**

2024-5-159109

RECORDING REQUESTED BY:

WHEN RECORDED, MAIL TO:

KB HOME
36310 Inland Valley Drive
Wildomar, CA 92595
Attn: Project Manager

(Space Above for Recorder's Use)

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR JBJ RANCH

NOTE: CERTAIN DISPUTES ARISING UNDER THIS DECLARATION, INCLUDING DISPUTES CONCERNING THE DESIGN OR CONSTRUCTION OF THE COMMUNITY, SHALL BE SUBMITTED TO JUDICIAL REFERENCE OR BINDING ARBITRATION, FORMS OF ALTERNATIVE DISPUTE RESOLUTION, IN ACCORDANCE WITH SECTION 12.4.

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

JBJ RANCH

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS is made by KB HOME Cal Management Services LLC, a Delaware limited liability company. The capitalized terms used in the Preamble below are defined in Article 1.

P R E A M B L E:

A. Declarant is the owner of real property (***"Phase 1"***) located in the unincorporated area of Riverside County, California, described as follows:

> Lots 1 to 213, inclusive, of Tract No. 31818-1 (***"Map"***), as shown on a Subdivision Map, Filed on _____, _____, in Book ____, Pages ___ to ___, inclusive, of Maps, in the Office of the Riverside County Recorder.

B. Declarant intends to create a "planned development," which is also a "common interest development," as such terms are defined in the CID Act, and a "subdivision" as defined in Section 11000 of the California Business and Professions Code. Declarant intends to impose mutually beneficial restrictions under a general plan for subdividing, maintaining, improving and selling the Lots in the Community for the benefit of all the Lots pursuant to the CID Act. The general plan of development will include forming an owners association under the California Nonprofit Mutual Benefit Corporations Law to which will be assigned the powers of (1) owning, maintaining and administering the Common Area, (2) administering and enforcing the Governing Documents, and (3) collecting and disbursing the Assessments and charges hereinafter created. Declarant will cause such corporation to be formed to exercise such powers, as required by the CID Act. The Members of the Association will be the Owners in the Community, as further provided in Article 4 herein.

C. 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 Lots 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.

D. 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 I
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 **Annexable Territory.** Annexable Territory means the real property described in ***Exhibit A*** which may be made subject to this Declaration pursuant to Article 16. Any references in this Declaration to Annexable Territory are references to the Annexable Territory as a whole and to portions thereof.

1.1.2 **Annual Assessment.** Annual Assessment means a charge against the Owners and their Lots representing their share of the Common Expenses. The Annual Assessment is a regular assessment levied in accordance with California Civil Code Section 5600, *et seq.*

1.1.3 **Articles of Incorporation.** Articles of Incorporation mean the Articles of Incorporation of the Association currently in effect. A copy of the initial filed Articles of Incorporation is attached as ***Exhibit B***.

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

1.1.5 **Association.** Association means JBJ Ranch Community Association, a California nonprofit corporation (formed pursuant to the California Nonprofit Mutual Benefit Corporations 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.

1.1.6 **Association Maintenance Area.** Association Maintenance Area means those Improvements in residential Lots or other real property which are not owned in fee by the Association but which are designated for maintenance by the Association.

(a) ***Generally.*** The Association Maintenance Areas in a Phase may include one or more of the following:

(i) The structural and support components of all Community Walls (including pilasters, caissons, footing, cap, masonry, wood, gates, gate hardware that act as access points to the Community, tubular steel and wrought iron), and all exterior surfaces thereof, except that the Owner of a Lot enclosed by any Community Wall shall maintain the Residence-facing surface of wood and masonry portions and maintain all party walls.

(b) ***Association Maintenance Areas in Future Phases.*** Association Maintenance Areas in each future Phase shall include the items listed in subparagraph (a) above as applicable to the Lots in such Phase. Declarant may designate additional Association Maintenance Areas in a Notice of Addition or Supplemental Declaration.

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

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

1.1.9 **BMPs**. BMPs mean "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 include both "source control" BMPs (which are structural or design requirements), and "post-construction" BMPs (which include maintenance requirements for the Association and practices and procedures that must be followed by the Association and by all occupants of the Community). The BMPs applicable to the Community are specified in detail in the maintenance schedule attached to the Water Quality Management Plan for the Community, but they include specific requirements for resident and employee education and training, regular management of landscaping and irrigation equipment consistent with the County's Landscape Water Efficiency Ordinance and County Management Guidelines for Use of Fertilizers and Pesticides, weekly litter control, vacuum sweeping of private streets (if any), maintenance of catch basin stenciling, inspection and cleaning of paved surfaces, fire sprinkler testing and maintenance, inspection and maintenance of drainage Improvements.

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

1.1.11 **Bylaws**. Bylaws mean the Bylaws of the Association as currently in effect. A copy of the initial form of Bylaws is attached as ***Exhibit C***.

1.1.12 **Capital Improvement Assessment**. Capital Improvement Assessment means a charge against the Owners and their Lots representing their share of the Association's costs incurred in installing, constructing, upgrading or modifying major or capital Improvements on the Common 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).

1.1.13 **CID Act.** CID Act means the Davis-Stirling Common Interest Development Act and its successor provisions. References in the Governing Documents to the Davis-Stirling Common Interest Development Act or the CID Act shall be deemed to refer to Division 4, Part 5 of the California Civil Code at Sections 4000 to 6150, or to subsequently enacted replacement statutes.

1.1.14 **Close of Escrow**. Close of Escrow means the date on which a deed is Recorded conveying a Lot pursuant to a transaction requiring the issuance of a Public Report by the DRE.

1.1.15 **Common Area**. Common Area means real or personal property owned in fee by the Association and therefore made subject to the restrictions on Common Area established in this Declaration. Any references in this Declaration to Common Area are

references to the Common Area as a whole and to portions thereof. The Common Area is "common area" as defined in California Civil Code Section 4095. Additional Common Area may be annexed to the Community pursuant to Article 16.

(a) ***Phasing of Common Area.*** Some or all of the Common Area in the Community will be conveyed to the Association in subsequent Phases; Section 1.3.2 below and any Supplemental Declaration Recorded by Declarant constitute the designation of the Common Area to be made a part of Phase 1. Other Common Area in the Community will be conveyed to the Association on a Phase-by-Phase basis in accordance with Declarant's development plan. In accordance with Article 16, Declarant may designate additional Common Area Improvements not listed above in one or more Phases by describing it in the Governing Documents, consistent with DRE Regulations, the Budget, and applicable law.

1.1.16 **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 Common Area (including amounts incurred for maintenance imposed on the Association by this Declaration), including:

(a) Common Area and Improvements thereon, including clustered mailboxes, address identification signs, landscaped and irrigated areas, all portions of the Community Walls that are constructed in Common Area and do not enclose a Lot, walls, fences, drainage facilities, retention basins, trails, sidewalks, parkways, medians, street lights, street trees, curbs, gutters, drive approaches and landscaping, landscape maintenance, and other services benefiting the Common Area;

(b) The Association Maintenance Areas, and the cost of maintenance services and utilities including landscaping service, irrigation water, brush clearance;

(c) The cost of all utilities (including sewer and water) and mechanical and electrical equipment serving the Common Area;

(d) The costs and fees attributable to 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;

(e) The cost of Association maintenance and performance of BMPs specified in the Water Quality Management Plan, including those discussed in Section 2.1.6, to the extent applicable to the Common Property;

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

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

(h) Taxes paid by the Association;

(i) The cost of regularly scheduled reserve studies;

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

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

1.1.17 **Community**. Community means (a) Phase 1, and (b) each Phase as defined in Section 1.1.57 below (subject to limitations on the commencement of Annual Assessments in Section 7.6.1, as applicable) or described in a Notice of Addition. The Community is a "common interest development" and a "planned development" as defined in the CID Act. Any references in this Declaration to the Community are references to the Community as a whole and to portions thereof.

1.1.18 **Community Wall**. Community Wall means any wall, sound wall, retaining wall, or fence in the Community that is maintained entirely or partially by the Association. Party Walls and other fences or walls that are maintained entirely by the Owners are not Community Walls. The Community Walls in each Phase of the Community are depicted on ***Exhibit E*** and the Supplemental Declaration of each applicable Phase; however, the obligation to maintain the Community Walls in a particular Phase will not arise until the commencement of Annual Assessments in that Phase or as otherwise directed in this Declaration, or in a Notice of Addition or Supplemental Declaration. Declarant may designate additional Community Walls in a Notice of Addition or Supplemental Declaration. Community Walls in the Community in general (a) are constructed on or along a tract boundary; or (b) separate a Lot from Common Area or public property; or (c) are constructed entirely within Common Area; or (d) are designated as a Community Wall by Declarant in this Declaration, or in a Notice of Addition or Supplemental Declaration. Party Walls are not Community Walls.

1.1.19 **Conditions of Approval**. Conditions of Approval means the Conditions of Approval for Tentative Tract No. 31818.

1.1.20 **County**. County means Riverside County, California, and its various departments, divisions, employees and representatives. If the Community is annexed into an incorporated city, then the term "County" includes the city in which the Community located.

1.1.21 **Declarant**. Declarant means KB HOME Cal Management Services LLC, a Delaware limited liability company, its successors and any Person to which it shall have assigned any of its rights by an express written assignment. As used in this Section, "successor" means a Person who acquires Declarant or substantially all of Declarant's assets by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise. Declarant shall determine in its sole discretion the time, place and manner in which it discharges its obligations and exercises the rights reserved to it under this Declaration. Declarant is a "builder" as described in California Civil Code Section 6000.

1.1.22 **Declaration**. Declaration means this instrument as currently in effect.

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

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

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

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

1.1.27 **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.

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

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

1.1.30 **First Mortgage**. First Mortgage means a Mortgage with first priority over other Mortgages on a Lot.

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

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

1.1.33 **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.

1.1.34 **Fuel Modification Plan**. Fuel Modification Plan means the Fuel Modification Plan prepared by Firewise 2000, LLC, and dated as of August 16, 2022.

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

1.1.36 **Governing Documents**. Governing Documents means this Declaration, the Articles of Incorporation, Bylaws, Design Guidelines, Rules and Regulations, Supplemental Declarations and Notices of Addition.

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

1.1.38 **Include, Including**. Whether capitalized or not, include and including means "includes without limitation" and "including without limitation," respectively.

1.1.39 **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.

1.1.40 **Lot**. Lot means any residential Lot or parcel of land shown on any Recorded subdivision map or Recorded parcel map of the Community, except the Common Area owned in fee simple by the Association.

1.1.41 **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.

1.1.42 **Maintenance Guidelines**. Maintenance Guidelines means any current written guidelines, setting forth procedures and standards for the maintenance and operation of Common Area or the Lots. 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 Common Area or pertaining to a Residence or Lot.

1.1.43 **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.

1.1.44 **Map**. Map means the final subdivision map of Tract 31818-1 as described in Preamble Paragraph A above. As Annexable Territory described on other maps is annexed to the Community, the term shall apply to such other maps as and when the context requires.

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

1.1.46 **Mortgage**. Mortgage means any Recorded document, including a deed of trust, by which a Lot, Lots, or Common Area is hypothecated to secure performance of an obligation.

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

1.1.48 **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.

1.1.49 **MSHCP.** MSHCP means the Western Riverside County Multiple Species Habitat Conservation Plan.

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

1.1.51 **Notice of Addition**. Notice of Addition means an instrument Recorded pursuant to Article 16 to annex additional real property to the Community.

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

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

1.1.54 **Owner**. Owner means the Person or Persons, including Declarant, holding fee simple interest to a Lot. 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.

1.1.55 **Party Wall**. Party Wall means any wall or fence that is constructed by Declarant to separate adjacent Lots (whether or not constructed on the legal property boundary). Party Walls are not Community Walls.

1.1.56 **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.

1.1.57 **Phase**. Phase means any portion of the real property within Tract No. 31818 or another map in the Community which has been designated a Phase in a particular Public Report issued by the DRE. Declarant may also designate a Phase in a Recorded Phase Designation. Declarant may otherwise define the term "Phase" in a Recorded Supplemental Declaration or Notice of Addition.

1.1.58 **Phase Designation**. Phase Designation means a Supplemental Declaration of Covenants, Conditions, Restrictions and Designation of Phase Recorded by Declarant against a portion of the Community in order to designate a particular Phase and the Common Property in the Phase.

1.1.59 **Phase 1**. Phase 1 means all of the real property described in Paragraph A of the Preamble of this Declaration.

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

1.1.61 **Reconstruction Assessment**. Reconstruction Assessment means a charge levied against the Owners and their Lots representing their share of the Association's extraordinary expense to repair or reconstruct Common Property as provided in California Civil Code Section 5610. Such charge shall be levied among all Owners and their Lots 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, with respect to any document, the entry of such document in Official Records.

1.1.63 **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.

1.1.64 **Residence**. Residence means the dwelling unit constructed on a Lot, 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.

1.1.65 **Right to Repair Law**. Right to Repair Law means Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code.

1.1.66 **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 or construction defect matters that are governed by the Right to Repair Law.

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

1.1.68 **Special Assessment**. Special Assessment means each of the following:

(a) A reasonable monetary penalty imposed against an Owner and the Owner's Lot 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 Lot); or

(b) A monetary charge imposed against an Owner and the Owner's Lot 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 Lot into compliance with the Governing

Documents, or (ii) in the repair of damage to Common 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 1.1.68(b) which are imposed before the last Close of Escrow in the Community or Annexable Territory may not be characterized or treated as a lien enforceable by judicial foreclosure and sale of the Lot; 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.

1.1.69 **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 Lots and/or Common Property. A Supplemental Declaration may also annex additional real property to the coverage of the Declaration so long as it satisfies the requirements of a Notice of Addition in Article 16. A Supplemental Declaration may modify this Declaration only as it applies to the property encumbered by the Supplemental Declaration.

1.1.70 **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.

1.1.71 **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.

1.1.72 **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.

1.2 **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.

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 A, D*** and ***E*** attached to this Declaration are incorporated in this Declaration by this reference. The Articles of Incorporation and the Bylaws that are attached as ***Exhibits B*** and ***C*** 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 depicted on the Exhibits attached hereto and to any Notice of Addition 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 of Incorporation, Bylaws, or Rules and Regulations, 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.** As each Phase of the Community is developed, Declarant may, concerning that Phase, 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) clarify 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.

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 the Governing Documents to statutes or regulations are to those statutes or regulations as currently in effect or to subsequently enacted replacement statutes or regulations.

1.3 **LAND CLASSIFICATIONS IN PHASE 1.** Phase 1 is hereby annexed to and made a part of the Community as a Phase and it is brought under the general plan of this Declaration.

1.3.1 **Lots**. The Lots in Phase 1 are numbered 1 to 213, inclusive, all as shown and described on the Map.

1.3.2 **Common Area**. The Common Area in Phase 1 consists of Lots 205, 206, 210, and 211 of Tract No. 31818-1, all as shown and described on the Map.

1.3.3 **Association Maintenance Areas**. The Association Maintenance Areas in Phase 1 are shown and described on ***Exhibit D***.

ARTICLE II
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.

2.1.1 By Owners.

(a) ***The Lot***. Each Owner shall maintain all of the Owner's Lot (except for any Association Maintenance Area or Improvements that are designated for maintenance by a governmental entity in a Recorded map or in a Governing Document), and the Residence and all other Improvements on the Owner's Lot in a clean, sanitary and attractive condition and as directed in the Governing Documents and all applicable Maintenance Guidelines. Owner-maintained Improvements shall include the following:

(i) Landscaping. Subject to Section 2.3, All Owner-maintained landscaping that is visible from other Lots or from the Common Area shall be properly maintained in a healthy and flourishing condition, 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 and root-pruned to prevent root damage to sidewalks, driveways and structures.

(ii) Party Walls. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply.

(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 Lots connected by such Party Wall. However, each Owner shall be solely responsible for repainting the side of any Party Wall facing the Owner's Lot.

(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 Lot is affected thereby may restore it, and the Owner of the other Lot 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.

(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.

(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.

(iii) Community Walls. The Owner of any Lot that is partially or completely enclosed by a portion of the Community Wall (whether constructed on the Lot or adjacent to the Lot) is responsible for maintaining only the Residence-facing surface of wood and masonry portions of the Community Wall. No Owner may modify or remove any tubular steel or wrought iron portions of any Community Wall, wherever located.

(iv) Other Responsibilities.

(1) Each Owner of a clustered mailbox shall maintain his individual mailbox and shall share equally with the other Owners in his mailbox cluster the costs of maintenance of the post or other supporting structure.

(2) Each Owner shall regularly inspect the Improvements on the Lot for wood-destroying pests, and if such pests are found, the Owner shall be responsible for the costs of eradication and future prevention.

(3) Each Owner whose Lot utilizes a sewer system lateral is responsible for the maintenance and repair of the portion of the lateral lying in the boundaries of the Lot.

(v) Fire Sprinklers and Smoke Detectors. Each Owner shall regularly inspect any fire sprinklers and smoke detectors that are in the interior of the Residence, arrange for regular pressure testing of the fire sprinkler system and conduct regular inspection and testing of the smoke detectors. Keep sources of direct heat away from fire sprinklers. Owners should report any leaking or malfunctioning fire sprinklers and malfunctioning smoke detectors to the service provider designated in the Maintenance Guidelines, or if none is designated, the Owner must contact a suitable servicer immediately.

2.1.2 **By Association**. The Association shall maintain everything it is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with the level and frequency of maintenance reflected in the current adopted Budget; provided, however, that the Association shall at all times at least perform the level and frequency of maintenance specified in the applicable Maintenance Guidelines.

(a) ***Commencement of Obligations.*** The Association's obligation to maintain the Common Area in a Phase composed solely of Common Area shall commence on conveyance of such Common Area to the Association either in fee or by maintenance easement. The Association's obligation to maintain the Common Area in any Phase that includes Lots commences on the date on which Annual Assessments commence on the Lots in the Phase, unless the terms of the Governing Documents applicable to the real property on which the Common Area is located provide otherwise. Until the Association is responsible for maintaining the Common Area in a particular Phase, Declarant shall maintain such Common Area.

(b) ***Acceptance of Common Area.*** The Association must accept ownership of and maintenance responsibility for each portion of Common Area when title and maintenance responsibility are tendered by Declarant, whether in fee simple, by easement or otherwise, and the Association shall execute each deed and any accompanying escrow instructions if requested to do so by Declarant, and it shall execute any bond exonerations when presented if the bonded obligations are satisfied. No Owner shall interfere with the exercise of the foregoing obligations by the Association, or with the rights or obligations of Declarant.

(c) ***Maintenance Requirements for Certain Improvements.*** Unless specifically provided in any Maintenance Guidelines, the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Area. The Association shall be responsible for maintaining the Common Area and for all other maintenance not provided by the Owners pursuant to Section 2.1.1 above or by a Local Government Agency.

(i) Landscaping. Subject to Section 2.3, the Association shall maintain the Common Property irrigation systems and maintain the Common 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 consistent with the WQMP. 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.

(ii) Fuel Modification Zones. The Association is responsible for maintaining, in accordance with the Fuel Modification Plan County requirements, those portions of the Community that are identified as Fuel Modification Zones in any Supplemental Declaration, Notice of Addition, or in the Fuel Modification Plan. In accordance with the Fuel Modification Plan for the Community, no combustible structures (*e.g.*, gazebos, patio overhangs, playhouses, room additions, tool sheds or wood fences) or devices that produce flames or sparks (*e.g.*, fire pits, barbecues, outdoor fireplaces or gas heaters for pools or spas) may be placed or constructed on, in or above the combustible restricted zone. The Association

shall ensure that only plant materials that are specified in the Fuel Modification Plan shall be installed and maintained in the Fuel Modification Zones.

(iii) Community Wall. The Association is responsible for maintaining the Association Maintenance Area portions of the Community Walls described in Section 1.1.6(a)(i) and depicted in ***Exhibit E,*** and any other portions designated for Association maintenance in a Notice of Addition or Supplemental Declaration. The Association is also responsible for all portions of the Community Wall that are constructed entirely in the Common Area, or that separate Common Area from public property, or from other real property lying outside the Community.

(iv) Ingress and Egress Improvements. The Association shall maintain all walks, private driveways and other means of ingress and egress in the Common Area (but not the walks, driveways or other hardscape on the Lots) in accordance with the Governing Documents and applicable Maintenance Guidelines.

(v) 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 Maintenance Areas and subject to provisions of the Governing Documents that are applicable to the Common Property.

2.1.3 **Inspections.** The Board shall periodically cause a compliance inspection of the Community to be conducted by the Design Review Committee to report any violations thereof. The Board shall also cause condition inspections of the Common Area and all Improvements thereon to be conducted in conformity with the applicable Maintenance Guidelines, and in the absence of inspection frequency recommendations in any applicable Maintenance Guidelines at least once every three (3) years, in conjunction with the inspection required for the reserve study to be conducted pursuant to the requirements of the Bylaws, to (a) determine whether the Common Area is being maintained adequately in accordance with the standards of maintenance established in Section 2.1, (b) identify the condition of the Common Area and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (c) recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future. The Board shall, during its meetings, regularly determine whether the recommended inspections and maintenance activities set forth in any applicable Maintenance Guidelines have been followed and, if not followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Common Area. 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 2.1.3. 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.

2.1.4 **Reporting Requirements.** The Association shall prepare a report of the results of the inspection required by this Section (each, a ***"Condition Report"***). The Condition Report shall be furnished to Owners and Declarant within the time set for furnishing the Budget to the Owners. The Condition Report must include at least the following:

(a) a description of the condition of the Common Area, 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 or consultant employed by the Association to perform inspections;

(e) a report of the status of compliance with the maintenance, replacement and repair needs identified in the inspection report for preceding years; and

(f) such other matters as the Board considers appropriate.

For a period of ten (10) years after the date of the last Close of Escrow in the Community, the Board shall also furnish to Declarant (a) the Condition Report performed for the Board, whenever such inspection is performed and for whatever portion of the Common Area that is inspected, within thirty (30) days after the completion of such inspection, and (b) the most recent Condition Report prepared for any portion of the Common Area, no later than the date that is ten (10) days after the Association receives Declarant's written request.

2.1.5 **Damage by Owners**. Each Owner is liable to the Association for all damage to the Common Area that is sustained due to the negligence or willful act of the Owner, the Owner's Family, tenants or invitees, and any other Persons who derive their use of the Common Area from the Owner or from the Owner's Family, tenants or invitees. The Association may, after Notice and Hearing, levy a Special Assessment against the Owner representing a monetary charge imposed as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Area and facilities for which the Owner or the Owner's Family, 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, tenants or invitees. In accordance with the CID Act, the Association shall have the power to impose a lien for the foregoing Special Assessment. If a Lot is jointly owned, the liability of its Owners for damage to Common Area is joint and several, except to the extent that the Association and the joint Owners have otherwise agreed in writing.

2.1.6 **Stormwater Pollutant Control**. The BMPs applicable to the Community state that the Association shall ensure that (a) irrigation equipment in the Association Property shall include water sensors and programmable irrigation times allowing for short cycles, (b) replacement plants installed by the Association in the Association Property are

the same as or similar to those plants that were originally installed by Declarant, (c) water-permeable surfaces originally installed by Declarant in accordance with the approved landscape plans are maintained free of debris and in good working order to promote surface filtration of storm water and irrigation runoff, (d) native and drought-tolerant plants originally installed on permanent slopes are maintained in accordance with the approved landscaping plans, (e) the specific requirements for resident and employee education and training are carried out at the frequency specified, (f) regular management of landscaping and irrigation equipment is consistent with the County's Landscape Water Efficiency Ordinance and County Management Guidelines for Use of Fertilizers and Pesticides, (g) weekly litter control is performed, (h) cleaning of paved surfaces are performed at the frequency specified in the BMPs, (i) catch basin stenciling is maintained as specified in the BMPs, (j) fire sprinklers and all drainage Improvements are maintained and tested as specified in the BMPs, (k) drainage Improvements are kept clear and maintained. The cost of the Association's portion of such maintenance, if any, shall be treated as a Common Expense.

2.2 **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 2.5 and 2.7 below, the Residence shall be used as a residential dwelling for a single Family and for no other purpose.

2.3 **WATER CONSERVATION MEASURES.** The Governing Documents impose maintenance and irrigation requirements and appearance standards for the landscaping on the Lots and in the Common Area. 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.

2.4 **FURTHER SUBDIVISION.** Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide the Owner's Lot in any manner, including dividing such Owner's Lot into time-share estates or time-share uses. This provision does not limit the right of an Owner to rent or lease the Lot pursuant to Section 2.5 below.

2.5 **LEASING AND RENTAL.**

2.5.1 **Leasing or Rental to Declarant.** Nothing in this Declaration shall be deemed to prevent an Owner from leasing or renting the Lot to Declarant for use as sales offices, model home, parking area or for other residential or non-residential purposes. Declarant may not lease any portion of the Common Area to the Owners or the Association.

2.5.2 **Leasing or Rental to Non-Declarant Parties.** Nothing in this Declaration shall be deemed to prevent an Owner from leasing or renting the Lot (or the portion with an Accessory Dwelling Unit or Junior Accessory Dwelling Unit) for residential occupancy, provided that:

(a) the terms of the lease or rental agreement are set out in a written lease or rental agreement;

(b) the lease or rental agreement is expressly made subject to this Declaration and the other Governing Documents of the Community;

(c) the lease or rental agreement shall be for a term of not less than thirty (30) days;

(d) the Lot is not offered for any transient occupancy (including hotel, inn, bed & breakfast, vacation rental, time-share, maternity hotel, or other short-term or temporary lodging), whether arranged individually or through a third-party booking or management service, and the lessor, landlord, or third-party booking or management service shall not provide to the occupants any services normally associated with transient occupancy, such as meals, linen service or periodic housekeeping services during the term of the lease or rental agreement; and

(e) the lease or rental agreement shall provide that all lessees, tenants, and their Families, agents and invitees are bound by the Governing Documents when present in the Community, and any violation of the Governing Documents by a lessee, tenant or their Families, agents or invitees also constitutes a default under the lease or rental agreement.

The Owner of the leased or rented Lot shall be liable for all acts or omissions, whether negligent or non-negligent, of the lessee, tenant, other occupants of the Lot and their Families, agents and invitees while present in the Community, and the lessor/landlord Owner shall indemnify, defend and hold harmless the Association and the other Owners in the Community from any liability arising from any such acts or omissions. All Assessments, fines, and penalties remain the responsibility of the lessor/landlord Owner during the term of the lease or rental agreement. A copy of this Declaration, the applicable Supplemental Declaration and any Rules and Regulations must be provided by the Owner to the lessee/tenant at the commencement of occupancy. The Association may not require that the tenant or lessee be approved by the Association, including but not limited to meeting creditworthiness standards.

2.6 **RESALE.** Nothing in this Declaration shall be deemed to prevent an Owner from (a) transferring or selling the Lot, 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.

2.7 **BUSINESS AND COMMERCIAL ACTIVITIES.**

2.7.1 **Generally.** No Owner or other occupant of the Community may undertake any activity in any Lot nor use any portion of the Common Area, for any business, commercial or non-residential purposes, 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 Residence would be occupied by numbers of persons in excess of the maximum occupancy permitted under applicable law, and transient occupancy of the Lot (as described in Section 2.5.2 above). 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.

2.7.2 **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 Lot 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.

(f) Small home-based service businesses that comply with all of the following:

(i) The operator of the business lives in the Residence on a permanent, full-time basis;

(ii) When conducted in the Community, business activities take place solely inside the Residence;

(iii) The business does not generate in-person visits by suppliers or clientele,

(iv) The business complies with all laws, regulations and ordinances applicable to the Community, including zoning, health and licensing requirements;

(v) The business otherwise complies with the Declaration and is consistent with the residential character of the Community;

(vi) The operator of the business posts no business-related signage anywhere in the Community;

(vii) There is no visible evidence in the Community of the business;

(viii) The business does not generate noise or odors that are apparent outside the Residence; and

(ix) The business does not increase the Association's liability or casualty insurance obligation or premium.

(g) Other activities that have been determined by governmental authorities 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.

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

2.8.1 **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 Lots or Common Area. 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 Residence 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 Lot;

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

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

2.8.2 **Nuisance Activities**. Nuisance activities may not be undertaken in the Community or on any street abutting the Community, or exposed to the view of other Lots or Common Area without the Board's prior written approval. Nuisance activities include the following:

(a) Subject to Section 2.14.5, hanging, drying or airing clothing, fabrics or unsightly articles in any place that is visible from other Lots, 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 noise from a barking dog or other animal kept in the Community (*e.g.*, 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 or rear yard screened from view by other Lots and Common Area;

(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;

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

(g) Any activity which may (i) increase the rate of insurance in the Community, (ii) result in cancellation of the insurance, (iii) obstruct or interfere with the rights of other Owners, (iv) violate any law or provisions of the Governing Documents, or (v) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.9 **SIGNS**. Subject to California Civil Code Sections 712, 713 and 4710, 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:

2.9.1 entry monuments, community identification signs, and traffic or parking control signs maintained by the Association;

2.9.2 for each Lot, one (1) nameplate or address identification sign which complies with Design Review Committee rules;

2.9.3 for each Lot, one (1) sign advising of the existence of security services protecting a Lot which complies with Design Review Committee rules;

2.9.4 for each Lot, one (1) sign advertising the Lot 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 Lot from the resale or lease market;

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

2.9.5 for each Lot, 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.

2.9.6 other signs or displays authorized by the Design Review Committee.

2.10 **PARKING AND VEHICULAR RESTRICTIONS.**

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

2.10.2 **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.

2.10.3 **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, and (i) 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.

2.10.4 **Parking Restrictions.**

(a) ***Driveways.*** If an Authorized Vehicle will not fit in a garage it may be parked in the driveway, provided that the Authorized Vehicle does not encroach onto the sidewalk or other public or private right-of-way.

(b) ***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 24-hour period during loading, unloading, or emergency repairs. However, a resident may park a Restricted Vehicle in a fenced side yard if the Restricted Vehicle is screened from view by other Lots and Common Area, or in the garage so long as the garage is kept closed and the presence of the Restricted Vehicle does not prevent at least one (1) Authorized Vehicle from being parked in the garage at the same time.

(c) ***Garage Parking.*** Each Owner shall at all times ensure that the garage physically 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.

2.10.5 **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. However, no Person may carry on in any portion of the Community any vehicle repair, maintenance or restoration business.

2.10.6 **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 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.

2.10.7 **Regulation and Restriction by Board.** The Board has the power to: (a) establish additional rules and regulations concerning parking in the Common Area, 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.

2.10.8 **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.

2.11 **ANIMAL REGULATIONS.**

2.11.1 **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 on each Lot, 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 on each Lot 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 on a Lot 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 Community (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 2.11.1.

2.11.2 **Reasonable Accommodations for Service Animals.** Also notwithstanding the limitations on numbers and types of animals in Section 2.11.1, the Board shall, without having to amend Section 2.11.1, 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 Lot 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 2.11.1, nor shall any limitations on the types of animals set forth in Section 2.11.1 apply to a qualified service animal. Qualified service animals permitted under this Section 2.11.2 remain subject to Sections 2.11.3 and 2.11.4 and the provisions of Sections 2.8 and 2.11.1, concerning the Association's rights and powers to abate nuisances.

2.11.3 **Animal Keeping Areas.** Residents are advised to choose pets that can be kept indoors or in the fenced yard areas of the Lot 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 2.8 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 Residence or in the fenced yard areas of the Lot. No animal may be left unattended in any part of the Common Area or in the public streets in the Community 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 Residence or in the fenced yard area of the Lot at all times.

2.11.4 **Owner Responsibility**. The Owner of the Lot shall be solely responsible for ensuring that there is no evidence outside the Lot of the presence of any animals kept by the Owner or by the other residents of the Lot (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.

2.12 **ANTENNA AND SATELLITE DISH RESTRICTIONS**. No Person may install on any Lot any antenna, satellite dish or other over-the-air receiving device unless it meets the definition of an "Authorized Antenna" below and is installed in accordance with the following restrictions:

2.12.1 **Definition**. 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.

2.12.2 **Masts**. An Authorized Antenna may be mounted on a mast to reach the height needed to receive an acceptable quality signal, subject to Local Government Agency permitting requirements for safety purposes. No mast shall be installed in such a way that it overhangs a neighboring Lot or Common Area, or poses a threat of damage to property or injury to persons.

2.12.3 **Preferred Installation Locations and Restrictions on Installation**. Rooftops, chimneys, balconies or fascia boards/barge boards at the rear of the Residence are the preferred installation location in the Community. 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 Lots. 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.

2.12.4 **Prohibitions on Installation**. The Committee may prohibit the installation of an Authorized Antenna in a particular 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, including the Common Area or any other property outside the Owner's Lot. 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.

2.12.5 **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 installation location (if one has been designated) for safety reasons or to comply with reasonable restrictions subject to this Section and applicable law. Approvals shall not be unreasonably withheld or delayed but may include restrictions which do not significantly increase the cost of installation, maintenance or use of the device, or significantly decrease its efficiency or performance or preclude reception of an acceptable quality signal) and in compliance with all applicable ordinances of the County, California statutes (*e.g.*, California Civil Code Section 4725), and federal regulations, as each may be amended or revised.

2.12.6 **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.

2.13 **TRASH**. Trash and recyclables must be stored in closed sanitary containers. No trash, recyclable materials or containers may be stored in view of other Lots or the Common Area, except that closed containers may be set out at curbside for a reasonable period of time on trash collection days (not to exceed twelve (12) hours before and after scheduled trash collection hours). At all other times, Owners must store closed containers in the garage or in a fenced yard area, out of sight of other Lots and Common Area, until scheduled collection times.

2.14 **OWNER-INSTALLED IMPROVEMENTS.**

2.14.1 **Outdoors**. No Person shall install any permanent outdoor Improvements on a Lot if the Improvements are visible from other Lots, or from the streets or the Common Area, without the prior written approval of the Design Review Committee obtained in accordance with Article 5 and the Rules and Regulations. Examples of outdoor Improvements that require prior Committee approval include the following:

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

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

(c) Modifications to the building exteriors including room additions, second-story additions or other cosmetic or structural changes in the architectural elements of the Residence;

(d) Permanently installed athletic equipment, including freestanding basketball standards, backboards attached to a Residence or any other Improvement on a Lot, soccer goals, hockey goals, skate ramps or other such Improvements. However, portable athletic equipment (such as movable basketball standards, soccer goals, hockey goals and skate ramps) may be used in yards or 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 streets, other Lots and Common Area;

(e) Sunshades, awnings or patio covers, if visible from other Lots, Common Area, or streets;

(f) Accessory structures such as sheds, barns and casitas;

(g) Paint or other surface finishes (unless the paint or finish used is the same as originally used by Declarant on the Improvement or the same as previously approved in writing by the Committee);

(h) Front yard or parkway landscaping and hardscape, including flatwork, fences or walls, or statuary, if visible from other Lots, Common Area or streets; and

(i) Rear yard landscaping and hardscape, including flatwork and fences or walls.

The foregoing list is provided for guidance but it is not intended to be an exhaustive list. The Committee has the power to require prior review and approval of other Improvements that are not listed above. Outdoor patio or lounge furniture, potted plants and portable barbecue equipment may be kept pursuant to the Rules and Regulations.

Persons who intend to install or construct outdoor Improvements on their Lots must consult the Design Review Committee prior to installation to determine if prior review and approval are required. This Section shall not apply to any Improvements installed by Declarant or by the Association, nor shall it apply to maintenance, repair, replacement or reconstruction of existing Improvements by Declarant or by the Association.

2.14.2 **Installation of Front Yard Landscaping**. Each Owner shall complete the installation of landscaping on the front yard of the Lot in accordance with a plan approved 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.

2.14.3 **Installation of Rear Yard Landscaping**. Each Owner shall complete the installation of landscaping on the rear yard of the Lot in accordance with a plan approved 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.

2.14.4 **Windows**. 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 Residence. This Section shall not be interpreted to prohibit the installation of blinds, shutters, curtains and other similar indoor window coverings. Pending installation of permanent window coverings, Owners may cover windows with white sheets up to 90 days/months following the Close of Escrow.

2.14.5 **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 fenced rear yard of the Lot. The Association has the power to establish Design Guidelines to minimize the visibility of the clotheslines and drying racks from the Common Area and other Lots 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.

2.14.6 **Holiday Decorations**. 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.

2.14.7 **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 Lot.

2.15 **MECHANICS' LIENS**. No Owner may cause or permit any mechanic's lien to be filed against the Common Area or another Owner's Lot 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 Lot to recover the cost of discharge.

2.16 **DRAINAGE**. There shall be no interference with or obstruction of the established surface drainage pattern(s) over any Lot in the Community, unless an adequate alternative provision is made for proper drainage.

2.16.1 **Established Drainage**. Any alteration of the established drainage pattern must at all times comply with all applicable Local Government Agency requirements. 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 Lot by Declarant, or as shown on any plan approved by the Committee. Established drainage includes drainage from Lot to Lot and to and from property lying outside the Community.

2.16.2 **Surface Drainage Improvements**. The established drainage system on a Lot 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"***). Each Owner shall maintain, repair, and replace and keep free from debris or obstructions all Surface Drainage Improvements, if any, located on the Owner's Lot, except those for which a public authority or utility is responsible.

2.16.3 **Sub-Drains**. Owners are advised that Declarant may have installed one or more drain lines beneath the surface of the Lot (each, a ***"Sub-Drain"***). Sub-Drains and appurtenant Improvements constructed or installed by Declarant (if any) provide for collection and drainage of surface waters from each Lot and from elsewhere in the Community to proper points of disposal.

2.16.4 **Maintenance of Drainage Improvements**. Each Owner must maintain, repair, replace and keep free of debris and obstructions all Surface Drainage Improvements and Sub-Drains located on the Lot, 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 the Owner's Lot 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.

2.16.5 **Grading**. The grading design in the Community should not be altered to redirect surface water flow toward the Lots 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.

2.17 **WATER SUPPLY SYSTEM**. No individual water supply, sewage disposal or water softener system is permitted on any Lot 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 Local Government Agencies with jurisdiction.

2.18 **VIEW OBSTRUCTIONS**. Each Owner acknowledges that (a) there are no protected views in the Community, and no Lot 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 Lot, and each Owner hereby consents to such view impairment.

2.19 **SOLAR ENERGY SYSTEMS**. In accordance with Civil Code Sections 714 and 714.1, each Owner may install a solar energy system (as defined in California Civil Code Section 801.5), on the Owner's Lot to serve the Owner's domestic needs, so long as (a) the design and location of the solar energy system meet the requirements of all applicable governmental ordinances, and (b) the design and location receive the prior written approval of the Design Review Committee.

2.20 **RIGHTS OF DISABLED**. Subject to Article 5, each Owner may modify such Owner's Residence and the route over the Lot leading to the front door of his Residence, at his sole expense to facilitate access to his Residence 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.

2.21 **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 without the prior written consent of the Design Review Committee. 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.

2.22 **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.

2.23 **COMMON AREA**. The Common Area may not be altered without the Board's prior written consent.

2.24 **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 Lot or within five hundred (500) feet of the surface of the Community. No derrick or other structure designed for use in boring for water, oil, geothermal heat or natural gas may be erected, maintained or permitted on any Lot.

2.25 **POST-TENSION CONCRETE SLABS**. Concrete slabs for Residences 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 (*e.g.*, to install a floor safe, to repair or remodel plumbing, etc.) is very hazardous and may result in serious damage to the Residence, personal injury, or both. Each Owner shall determine if his Residence 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 shall 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 Residence; (c) Owner shall disclose the existence of the Post-Tension Slab to any Person who rents, leases or purchases the Residence 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.

2.26 **EASEMENTS.** The ownership interests in the Lots and Common Area are subject to the easements granted and reserved in this Declaration. Each of the easements reserved or granted herein shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Owners, the Association and the Declarant, and each of their respective properties, superior to all other encumbrances applied against or in favor of any portion of the Community. Individual grant deeds to Lots and Common Area may, but shall not be required to, set forth the easements specified in this Article or elsewhere in this Declaration.

ARTICLE III
DISCLOSURES

This Article discloses information that was 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 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 planned unit development, except as expressly provided in this Declaration, as submitted by Declarant to the DRE.

3.2 **SPECIAL DISTRICTS.** The Community lies within the boundaries of the following special districts:

3.2.1 **Community Facilities District No. 2020-1.** Community Facilities District No. 2020-1 is a Mello-Roos Community Facilities District formed to provide for the ongoing maintenance of landscaping, proportional responsibility of the Regional Sports facilities (in a future phase), street lighting, traffic signals and WQMP. Mello-Roos Community Facilities Districts are created by Local Government Agencies to finance public improvements and services when no other source of funds is available. Once formed and approved, the district will levy a special tax lien against each Lot in the district's boundaries. District charges will appear on each Owner's property tax bill. Such districts also have the power to sell municipal bonds to

raise additional funds if they are necessary to build the public improvements or fund the services. Such districts have rights to accelerated foreclosure if assessments are delinquent for more than a specified amount of time. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.2 **Lighting and Landscaping District**. A Lighting and Landscaping District may be formed to finance the costs of landscaping and lighting public areas in the vicinity of the Community. Such districts are created by a majority vote of the affected property owners through an assessment balloting procedure at the request of a sponsoring agency. Once approved, the district has the power to levy assessments against each Lot in the district's boundaries. District charges will appear on each Owner's property tax bill. Such districts have rights to accelerated foreclosure if assessments are delinquent for more than a specified amount of time. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.3 **Other Districts**. This Section is not intended to be an exhaustive list of districts that presently affect the Community. The Community may at present lie within other special tax districts, or they may be annexed to other special tax districts from time to time in the future. Owners are advised to consult the County Assessor's office for further information.

3.3 **SOIL CONDITIONS**. For in-depth information regarding the geotechnical aspects of the Community, Owners should review the geotechnical report entitled "Revised Design-Phase Geotechnical Evaluation Report" (***"Soils Report"***). A copy of the Soils Report is available for viewing at the County's Community Development Department.

3.3.1 **Expansive Soil**. The soil in the Community may be 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:

3.3.2 **Concrete and Masonry Improvements**. Special attention is required in designing and constructing concrete and masonry Improvements such as masonry walls and planters, concrete slabs, pools, 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. Pools and spas located at or near the top or bottom of a slope or on expansive soils may require special design and construction methodology.

3.3.3 **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) Lot or the Common Area 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.

3.3.4 **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 pools, spas, patios, walls, slabs, planters, decking and the like. Slope creep can cause pools, spas and walls 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.

3.3.5 **Corrosive Soil**. Soils in the Community may be corrosive. 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.

3.4 **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. Additional information about EMF and RF is available from the following agencies:

3.4.1 the World Health Organization's International EMF Project website at Non-ionizing Radiation, Part 1: Static and Extremely Low-frequency (ELF) Electric and Magnetic Fields (who.int);

3.4.2 the U.S. National Institute of Environmental Health Sciences website at Electric & Magnetic Fields (nih.gov);

3.4.3 the CDC website at EMF (Electric and Magnetic Fields) | NIOSH | CDC;

3.4.4 The California Public Utilities Commission EMF page at Electric Magnetic Fields (ca.gov); and

3.4.5 Pacific Gas & Electric at Understanding Radio Frequency (pge.com);

3.4.6 Southern California Edison website at Electric & Magnetic Fields | Your Family's Safety | Safety | Home - SCE;

3.4.7 San Diego Gas & Electric website at Electric and Magnetic Fields (EMF) | San Diego Gas & Electric (sdge.com).

This list is not meant to be all-inclusive.

3.5 **RURAL AREA.** The Community is located in a rural area which includes various rural land uses. As a result of the rural character of the area in the vicinity of the Community, Lots may be affected by wildlife, noises, odors, reptiles or insect life typically found in rural areas. Snakes, rodents, mountain lions and coyotes are some of the wildlife typically encountered in rural areas. Owners should expect to encounter insects of all types including flies, ticks, Africanized (killer) bees, mosquitoes, spiders, black and red fire ants, crickets and aphids. Declarant and the Association are not responsible for wildlife control or eradication.

3.6 **OFFERS OF DEDICATION.** Portions of the Common Area are subject to irrevocable offers of dedication as shown on the Recorded tract maps for the Community. The County may accept the offer of dedication and assume responsibility for maintaining these portions of the Common Area at any time. If accepted by the County at a later time, the level of maintenance provided by the County may not be the same as that provided by the Association.

3.7 **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 Community:	Rural residential, single-family housing and vacant land.
South of Community:	Horsethief Canyon SP #152; MSHCP open space.
East of Community:	Horsethief Canyon SP #152, single-family homes.
West of Community:	R-4/R-5; Horsethief Canyon Channel, Phase 2 of Tract 31818.

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 Government Agencies for updated information concerning the development plan for the surrounding community.

3.8 **RETENTION BASINS AND OTHER WATER HAZARDS.** Retention basins in the Community are a part of the storm drainage system. During periods of heavy rain, water and debris may accumulate in the detention basins. Other water hazards are located in the Community including creeks, floodways and drain inlets. Owners and other residents are advised to keep children and animals away from the detention basins and other water hazards at all times.

3.9 **PROPERTY LINES.** The boundaries of each Lot in the Community and the Common Area owned in fee simple by the Association are delineated on subdivision (tract) maps, lot line adjustments or parcel maps that are public records and are available at the County Recorder's office.

3.10 **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 Lot. Each Owner understands that 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 Owner, by accepting a deed to a Lot in the Community, understands that each Lot and portions of the Common Area 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 Lot or other portion of the Community.

3.11 **RECLAIMED WATER.** In its efforts to conserve water, the local water district (***"Water District"***) requires the use of reclaimed water to irrigate 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 Common Area 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 Residences 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.

3.12 **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 Residence from these and other sources. Preventative measures include, but are not limited to the following: (1) regularly cleaning the Residence; (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 and Lot 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 - CDPH Home (ca.gov); Centers for Disease Control and Prevention – CDC | National Center for Environmental Healthh; U.S. Environmental Protection Agency – U.S. Environmental Protection Agency | US EPA; Illinois Department of Public Health – Home (illinois.gov); and Washington State Department of Health – Home :: Washington State Department of Health.

3.13 **NATURAL HAZARD ZONE DISCLOSURES**. According to the Natural Hazard Disclosure Statement dated as of February 21, 2023 and prepared by Disclosure Source Inc., all or a portion of the Community lies within the mapped boundaries of the following natural hazard zones:

3.13.1 **Earthquake Fault Zones**. California is subject to a wide range of earthquake activity. California has many known earthquake faults as well as yet-undiscovered faults. According to the Natural Hazard Disclosure Statement, the Community is located within an Earthquake Fault Zone as defined by California Public Resources Code Section 2621.9. This

Earthquake Fault Zone is a Fault-Rupture Hazard (Alquist-Priolo) Zone, which is located along the Glen Ivy North (GIN) branch of the Elsinore Fault Zone. 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, 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 Seismic Safety Commission | (ca.gov) and consult with the County, other public agencies, and appropriate experts to evaluate the potential risk.

3.13.2 **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 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.

3.13.3 **Wildland Fire Area/State Responsibility Area**. According to the Natural Hazard Disclosure Statement, the Community is located within a mapped Wildland Fire Area/State Responsibility Area due to wild land exposure. These maps are updated periodically, and Declarant makes no representations, guarantees or warranties with respect to any future state responsibility area determinations. In such areas, (a) there may be substantial forest fire risks and hazards; (b) if the County has assumed responsibility for prevention and suppression of all fires, it is NOT the state's responsibility to provide fire protection services to any building or structure located within a Wildland Fire Area/State Responsibility Area unless the California Board of Forestry has entered into a cooperative agreement with a local fire agency (such as the Riverside County Fire Department); and (3) Owners may be is subject to (i) additional construction requirements such as a "Class A" roof for new construction or replacement of existing roofs; and (ii) additional maintenance responsibilities such as adequate vegetation clearance near the structure, spark screens on chimneys and stovepipes, leaf removal from roofs, and other basic fire-safety practices. Such requirements could substantially limit or otherwise impact the Owner's right to construct and modify Improvements pursuant to California Public Resources Code Section 4125. An Owner's Lot is subject to the maintenance requirements of

California Public Resources Code Section 4291. Owners are advised to contact the Riverside County Fire Department at (951) 940-6900 for the most current information.

3.14 **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.

3.15 **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:

EPA Map of Radon Zones and Supplemental Information | US EPA

and

Indoor Radon (ca.gov)

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.

3.16 **GLEN EDEN SUN CLUB.** The Community is located near the Glen Eden Sun Club, a one hundred fifty (150) acre nudist resort (the "Club"). The facilities of the Club include (a) several hundred recreational vehicle sites for short-term, extended-term and permanent occupancy, (b) swimming pools, (c) tennis courts, (d) lawn areas, (e) a café and clubhouse, (f) a softball field, and (g) other recreational and associated support facilities. Club operation may be carried on during nighttime hours as well as daylight hours.

3.17 **CHANGE IN PLANS.** Declarant has the right to develop the Annexable Territory with Improvements that may be different in design, size, character, style and price from those in Phase 1 or any other Phase.

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

3.19 **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 IV
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 the laws of the State of California 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 of Incorporation, Bylaws, this Declaration, or the Supplemental Declarations, the powers of the Association may be exercised by the Board.

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

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 Common Area.

4.2.3 **Granting Rights.** The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in the Common Area 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 Common Area. 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 Common Area, the affirmative vote of members owning at least sixty-seven percent (67%) of the Lots in the Community shall be required before the Board may grant exclusive use of any portion of that Common Area to any member, except as provided in California Civil Code Section 4600. Any measure placed before the members requesting that the Board grant exclusive use of any portion of the Common Area 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 Common Area.

4.2.4 **Employ Personnel.** The power to employ Persons necessary for the effective operation and maintenance of the Common Area, 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 **Maintenance Guidelines.** The power and duty to (a) operate, maintain and inspect the Common Area 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.

4.2.7 **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 of Incorporation or the Bylaws;

(iii) The Rule is not inconsistent with governing law, this Declaration, the Articles of Incorporation or the Bylaws;

(iv) The Rule is adopted, amended or repealed in good faith and in substantial compliance with the requirements of the CID Act;

(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 Residences religious, holiday and political signs, symbols and decorations of the kinds normally displayed in single family 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 Residence. 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 Lot and it shall not apply to: (i) subsequent Owners who take title to a Lot after the modification is adopted; or (ii) clarifications to the Rules and Regulations.

(d) ***Procedure for Adoption, Amendment and Repeal***. Rules or procedures concerning (1) the use of Common Area, (2) the use of a Lot, including any aesthetic standards or Design Guidelines that affect Lots, (3) Owner 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 Lot or to the Common Area, 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 4.2.7(d) is subject to California Civil Code Section 4360;

(vi) A Rule Change made pursuant to this Section 4.2.7(d) may be reversed as provided in California Civil Code Section 4365.

(e) ***Exceptions to Procedure***. The procedure in Section 4.2.7(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 Common Area;

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

(vi) Issuance of a document that merely repeats existing law or the Governing Documents.

4.2.8 **Borrowings**. The power, but not the duty, to borrow money for purposes authorized by the Articles of Incorporation, Bylaws, Declaration, any Supplemental Declarations or any Notice of Addition, and to use the Common Area owned in fee simple by the Association as security for the borrowing.

4.2.9 **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.

4.2.10 **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 a 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 Lot 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 prior to the expiration 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 (ii) 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 Lots 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 Lot.

(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.

4.2.11 **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.

4.2.12 **Annexing Additional Property**. The power, but not the duty, to annex, pursuant to Section 16.2, additional property to the Community encumbered by this Declaration.

4.2.13 **Vehicle and Parking Restrictions**. The power granted in Section 2.10 to identify Authorized Vehicles or Restricted Vehicles and to modify the vehicle and parking restrictions in the Governing Documents.

4.2.14 **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 Common Area, 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.

4.2.15 **Prohibited Functions.**

(a) ***Property Manager.*** The Association shall not hire any employees, furnish offices or other facilities, or use any Common Area for an "on-site" Manager. The Association 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 (*e.g.* endorsement or support of legislative or administrative actions by a Local Government Agency), 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 owns any portions of the Community.

4.2.16 **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 Common Area, (b) damage to portions of the Lots which the Association is obligated to maintain or repair, and (c) damage to portions of the Lots which arises out of, or is integrally related to, damage to the Common Area or portions of the Lots 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 Lot 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 his 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 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, rule-making 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 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 Lot ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Lot is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Lot is transferred, and every Membership is appurtenant to and may not be separated from the fee ownership of the Lot. 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 Lot, and then only to the transferee or Mortgagee of the Owner's Lot. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold the Owner's Lot 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 Lot which accrue before title to the Lot is

transferred. If the contract seller fails or refuses to delegate his 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 Lot (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 Lot 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 Lot shall be exercised in accordance with Section 4.5.1, but no more than one (1) Class A vote may be cast for any Lot.

(b) ***Class B.*** The Class B member is Declarant. The Class B member is entitled to three (3) votes for each Lot owned by Declarant 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 second (2^{nd}) anniversary of the first Close of Escrow in the most recent Phase; or

(ii) The fourth (4^{th}) anniversary of the first Close of Escrow in Phase 1.

4.4.4 **Class B Board Appointment Right.** The Class B Membership shall also include a limited right to appoint a simple majority of the members of the Board of Directors (the ***"Board Appointment Right"***).

(a) ***Limits on Exercise of Board Appointment Right.*** Until the expiration of the Board Appointment Right as determined below, Declarant shall not be permitted to cast any Class A or Class B vote to elect any member of the Board of Directors. Declarant's power to fill seats on the Board shall during that time be limited to exercise of the Board Appointment Right.

(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 Annexable Territory.

(c) ***No Amendment without Declarant Consent.*** Notwithstanding anything to the contrary in this Declaration, this Section 4.4.4 shall not be amended without the prior written consent of Declarant until Declarant no longer owns any portion of the Community or Annexable Territory.

4.5 **VOTING RIGHTS.** Voting rights attributable to the Lots in a Phase shall be exercised only after Annual Assessments have commenced in the Phase.

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 Lot (each, a ***"Co-owner"***), 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 Lot is entitled. Co-owners owning the majority interests in a Lot may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed and the vote for each Lot 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 Lot shall be exercised as the Co-owners owning the majority interests in the Lot 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 his Co-owners' consent. No vote may be cast for any Lot if the Co-owners present in person or by proxy owning the majority interests in such Lot 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 Lot 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 Lot 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 Lot 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 Lot 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 V
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 Phase 1 (***"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 Lots in the Community and the Annexable Territory, or (b) the fifth (5^{th}) anniversary of the original issuance of the Public Report for Phase 1, 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, but Design Review Committee members appointed by Declarant need not be 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 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 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 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 may require a fee 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 construction, reconstruction, installation, removal or alteration of any outdoor Improvement on a Lot, including landscaping, grading, excavation, filling or other alteration to the grade or level of the land, may be commenced by any Owner without prior Design Review Committee approval. However, a Residence may be repainted or refinished without prior Design Review Committee approval so long as the Residence is repainted or refinished with materials that are identical to the materials originally used by Declarant or last applied to the Improvement with Committee approval (as applicable). The provisions of this Article apply to construction, installation and alteration of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Sections 714 and 714.1, the applicable Building Code, zoning regulations, and other laws.

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 a review fee in an amount set in writing from time to time by the Committee, along with all other 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 (***"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 (***"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 written request of the Applicant execute a written approval therefor within fifteen (15) days of receipt of the written request. 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. Issuance of permits by a Local Government Agency does not remove the requirement that the Applicant obtain the approval of the Design Review Committee before commencing construction of the proposed Improvements.

5.3.3 **Standard for Approval.** 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 any 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 Lots, 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 Lot 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 agreement to furnish the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Common Area or another Owner's Lot as a result of such work; (b) such changes to the Application as the Design Review Committee considers appropriate; (c) 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; (d) the Applicant's agreement to install water, gas, electrical or other utility meters to measure any increased utility consumption; (e) 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); or (f) the Applicant's agreement to complete the proposed work within a stated period of time. The Committee may also require the Applicant, prior to commencing work, to deposit with the Association adequate funds to repair or restore any Common Area 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 Common Area was not damaged or was restored at least to the condition it was in prior to the commencement of work.

The Design Review Committee has the right to require a reasonable security deposit with each Application. The security deposit will be applied to the cost of repairing damage to Common Area as a result of the Application. The amount of the security deposit shall be specified in the Design Guidelines. The security deposit may be increased or decreased from time to time at the discretion of the Design Review Committee. The Design Review Committee may also require submission of additional plans and specifications or other information before approving or disapproving material submitted. The Applicant shall meet any review or permit requirements of the County before making any construction, installation or alterations permitted under this Declaration.

5.3.5 **Governmental Approvals**. The Applicant shall meet the requirements of all applicable ordinances, codes and regulations of the Local Government Agencies, 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 Local Government 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 (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. So 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 of issuance of the approval, an Owner either does not commence work pursuant to approved plans or obtain an extension of time to commence work, the approval shall be automatically revoked and a new approval must be obtained before work can be commenced.

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, or (b) an Improvement is not completed within the time limit established by the Committee in its approval, or (c) an Improvement 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 of 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 consideration 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 expires, 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 the covenants, conditions and restrictions in this Declaration shall be deemed to have occurred with respect to 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 the Owner's Lot. The Committee's written variance shall be Recorded against the Applicant's Lot 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 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 VI
PROPERTY EASEMENTS AND RIGHTS

6.1 **EASEMENTS.**

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 Common Area for the benefit of the Owners and their Lots. 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 Lot in the Community and the Annexable Territory.

6.1.3 **Encroachments.** Declarant reserves, for its benefit and for the benefit of all Owners and their Lots, a reciprocal easement appurtenant to each Lot over the other Lots and the Common Area 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 Residences or other Improvements. Use of the easements may not unreasonably interfere with each Owner's use and enjoyment of the burdened Residences.

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 Common Area**. Declarant reserves, for the benefit of every Owner, and each Owner's Family, tenants and invitees, nonexclusive easements for pedestrian and vehicular access (all as applicable) over the Common Area in the Community as reasonably necessary for the use and enjoyment of each Lot in the Community. This easement is appurtenant to and passes with title to every Lot in the Community.

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

(a) An easement over all Lots that are enclosed by a portion of the Community Wall, consisting of a three (3) foot-wide strip of land bounded on one side by the Residence-facing surface of the Community Wall, and extending along the entire length of that portion of the Community Wall that encloses the Lot, in order to accommodate the footings and other structural components of the Community Wall; and

(b) An easement for access over such Lots as reasonably necessary for maintaining the Community Walls and related Improvements. If a Community Wall is damaged, the Association shall have the right to enter upon the Lot as necessary to reconstruct the Community Wall in the easement area, and the easements reserved hereby shall continue in effect so long as the Community Wall remains in place.

6.1.9 **Reserved for Declarant and the Annexable Territory**. Declarant reserves for its benefit and for the benefit of the owners of Residences that may be constructed in the Annexable Territory (whether annexed to the Community or not) easements for pedestrian and vehicular access, including construction access, over all Common Area streets and sidewalks located within the Community.

6.1.10 **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.

6.1.11 **Easements for Maintenance of Association Maintenance Areas**. Declarant reserves, for the benefit of the Association, nonexclusive easements over each Lot in Phase 1 as necessary for access and maintenance of Association Maintenance Areas described herein or depicted on ***Exhibit E***. No owner may interfere with the Association's exercise of its rights under the easements reserved in this Section.

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 a Phase to another Person before the last Close of Escrow in the Community and the Annexable Territory, then Declarant grants the Telecommunications Easements to the Association effective as of the last Close of Escrow in the Community and the Annexable Territory.

6.2 **ADDITIONAL EASEMENTS.** Declarant reserves easements over the Common Area 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 Lot in the Community and the Annexable Territory. Such conveyance must be approved by the Board, which approval must not be unreasonably withheld. The purpose of the easement, the portion of the Common Area affected, the Lot to which the easement is appurtenant, and any restrictions on use of the easement area shall be identified in a Recorded grant of easement.

6.3 **DELEGATION OF USE.** Any Owner may delegate his right to use the Common Area owned in fee simple by the Association in writing to his tenants, contract purchasers or subtenants who reside in such Owner's Residence, subject to regulation by the Board.

6.4 **RIGHT OF ENTRY.**

6.4.1 **Association.** The Association has the right to enter the Lots to inspect the Community, and may take whatever corrective action it determines to be necessary or proper. Entry onto any Lot under this Subsection may be made after at least three (3) days' advance written notice to the Owner of the Lot except for emergency situations, which shall not require notice. Nothing in this Subsection limits the right of an Owner to exclusive occupancy and control over the portion of the Owner's Lot that is not an Association Maintenance Area. Any damage to a Residence or Lot caused by entry under this Subsection shall be repaired by the Association.

6.4.2 **Declarant.** The Declarant has the right to enter the Lots and the Common Area (a) to comply with requirements for the recordation of subdivision maps or lot line adjustments in the Community or Annexable Territory, (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 governmental agencies. Declarant shall provide the applicable Owner reasonable notice before such entry, except for emergency situations, which shall not require notice. Any damage to the Community that is caused by entry under this Subsection shall be repaired by the Declarant. Unless otherwise specified in the applicable initial grant deed by which Declarant has transferred ownership of the subject Lot or subject Common Area, this right of entry shall automatically expire on the later of the date that is twelve (12) years after the date of Recordation of this

Declaration in the Official Records, or the date that is twelve (12) years after the date of Recordation of the grant deed by which Declarant first conveyed fee title to the subject real property under authority of a Public Report issued by the DRE.

6.4.3 **Owners.** Each Owner shall permit other Owners, and their representatives, to enter the Owner's Lot to perform installations, alterations or repairs to the mechanical or electrical services to a Lot if (a) requests for entry are made in advance, (b) entry is made at a time reasonably convenient to the Owner whose Lot is to be entered; and (c) the entered Lot is left in substantially the same condition as existed immediately preceding such entry. Any damage to the Lot 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 VII
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 Lot 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 Lot 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) Operating Fund account for current Common Expenses, (b) an adequate 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. 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' welfare, (b) operate, improve and maintain the Common

Area, 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 exempt himself from personal liability for Assessments duly levied by the Association, nor release such Owner's Lot from the liens and charges thereof, by waiving use and enjoyment of the Common Area or by abandoning such Owner's Lot.

7.5 **LIMITS ON ANNUAL ASSESSMENT INCREASES.** The following shall apply to the Assessment Component of Annual Assessments:

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 Lot in an amount that is more than twenty percent (20%) greater than the amount of Annual Assessments disclosed for the Community in the most current Budget filed with and reviewed by the 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 Lots are represented (***"Increase Election"***). This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.5.

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 (i) have distributed the Budget for the current Fiscal Year in accordance with California Civil Code Section 5300, or (ii) 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 7.5.5.

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, 7.5.2 and 7.5.5, the Board may levy a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Lot.

7.5.4 **Automatic Assessment Increases.** Despite any other provisions of this Section 7.5, on Declarant's annexation of the Annexable Territory pursuant to Article 16, the Annual Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Common Area identified in the Notice of Addition as a part of the Phase that includes the Annexable Territory so long as (a) the annexation is permitted by the DRE, and (b) the amount of such automatic increase does not exceed the maximum automatic increase allowed under California Civil Code Section 5605(b).

7.5.5 **Emergency Situations.** For purposes of Sections 7.5, 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 Lots in a Phase as delineated in a Public Report issued by the DRE on the first day of the first calendar month following the first Close of Escrow in such Phase.

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 Lots for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Lot 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 the DRE. Written notice of any change in the amount of any Annual

Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via 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 Lots based on the number of Lots owned by each Owner, except as may be otherwise provided in a Supplemental Declaration. The Board may determine that funds in the Operating Fund at the end of the Fiscal Year be retained and used to reduce the following Fiscal Year's Annual Assessments. On dissolution of the Association incident to the abandonment or termination of the Community as a planned development, 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.

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 **CAPITAL IMPROVEMENT ASSESSMENTS.** The Board may levy, in any Fiscal Year, a Capital Improvement Assessment or Reconstruction Assessment to defray, in whole or in part, the cost of any construction, repair or replacement of a capital Improvement or such other addition to the Common Area. No Capital Improvement Assessments 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. The Board may levy, in any Fiscal Year, a Capital Improvement Assessment 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 7.5.5.

ARTICLE VIII
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 Common Area. Such policy shall specify amounts and include

protection from liability and risks as are customarily covered in similar planned unit 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. 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.** 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 Common Area. The casualty insurance shall not include earthquake coverage unless the Board is directed to obtain earthquake coverage by a majority of the Association's voting power.

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 Lots 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 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 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 Lot 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 **Other Insurance.** Such other insurance insuring other risks customarily insured by associations managing planned unit developments 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 Section 5805 of the California Civil Code.

8.1.6 **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 his personal property and all other property and Improvements on the Owner's Lot for which the Association has not purchased insurance in accordance with Section 8.1. 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. Duplicate copies of Owners' insurance policies shall be deposited with the Association on request. 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 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 9.4. The Board is authorized to make a settlement with any insurer for less than full coverage for any damage, so long as the Board acts in accordance with the standard of care established in this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures are binding on all the named insureds. A representative chosen by the Board may be named as an insured, including a trustee with whom the Association may enter into an insurance trust agreement and any successor to such trustee, who shall have exclusive authority to

negotiate losses under any insurance policy and to perform such other functions necessary to accomplish this purpose.

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

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

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

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

8.8.2 Any defense based on coinsurance;

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

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

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

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

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

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

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

ARTICLE IX
DESTRUCTION OF IMPROVEMENTS

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

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

9.3 **INTERIOR DAMAGE.** With the exception of any casualty or damage covered by insurance kept by the Association, 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.

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

ARTICLE X
EMINENT DOMAIN

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

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

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

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

ARTICLE XI
RIGHTS OF MORTGAGEES

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

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

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

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

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

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

(a) examine current copies of the Association's books, records and financial statements and the Governing Documents during normal business hours;

(b) receive written notice of all meetings of Owners; and

(c) designate in writing a representative who shall be authorized to attend all meetings of Owners.

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

11.2.6 **Intended Improvements.** All intended Improvements in any Phase must be substantially completed or the completion of such Improvements must be secured by a bond or other arrangement acceptable to the DRE before the first Close of Escrow in such Phase. All intended Improvements in any Phase other than Phase 1 shall be substantially consistent with

the Improvements in Phase 1 in structure, type and quality of construction. The requirements of this Section are for the benefit of and may be enforced only by Fannie Mae.

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

ARTICLE XII
ENFORCEMENT AND DISPUTE RESOLUTION

12.1 **ENFORCEMENT OF GOVERNING DOCUMENTS.** All violations of the Governing Documents, except for those governed by Sections 12.2 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 Sections 5900, *et seq.*, and 5925, *et seq.* of the California Civil Code. Each Owner has a right of action against the Association for the Association's failure to comply with the Governing Documents. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

12.1.2 **Violations Identified by the Association**. If the Board or the Design Review Committee determines that there is a violation of the Governing Documents, other than nonpayment of any Assessment, then the Board shall give written notice to the responsible Owner identifying (a) the condition or violation complained of, and (b) the length of time the Owner has to remedy the violation including, if appropriate, the length of time the Owner has to submit plans to the Design Review Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Design Review Committee. This requirement shall apply notwithstanding the fact that this Declaration may duplicate County ordinances or regulations. If an Owner does not perform corrective action within the allotted time, the Board, after Notice and Hearing, may remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. If the violation involves nonpayment of any Assessment, then the Board may collect such delinquent Assessment pursuant to the procedures established in Section 12.2.

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

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

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

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

12.1.7 **Limit on Expenditures**. The Association may not incur litigation expenses, including attorneys' fees, or borrow money to fund litigation, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Association first obtains the consent of a majority of the Association's voting power (excluding the voting power of any Owner who would be a defendant in such proceedings) and, if applicable, complies with the requirements of California Civil Code Sections 5900, *et seq.*, 5925, *et seq.* Provided, however, that no such approval shall apply to any legal proceedings 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, 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 Lot was Recorded.

(b) ***Notice Before Creating Lien.*** Before the Association may place a lien on an Owner's Lot to collect a past due Assessment, the Association shall send written notice (***"Notice of Intent to Lien"***), at least thirty (30) days before Recording the lien, to the Owner by certified mail which contains the following information: (1) the Association's fee and penalty procedure, (2) an itemized statement of the charges owed by the Owner, including the principal owed, any late charges, any interest, the method of calculation, and any attorneys' fees, (3) the collection practices used by the Association, (4) a statement that the Association may recover reasonable costs of collecting past due Assessments, (5) a statement that the Owner has the right to inspect the Association's records, pursuant to California Corporations Code Section 8333, (6) the following statement in 14-point boldface type or all capital letters: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION," (7) a statement that the Owner shall not be liable to pay the charges, interest and costs of collection if it is determined the Assessment was paid on time to the Association, (8) a statement that the Owner has the right to request a meeting with the Board, as provided by California Civil Code Section 5705(b) and Section 12.2.2(g) below, (9) a statement concerning the Owner's right to dispute the Assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program required in California Civil Code Section 5900, *et seq.*, and (10) a statement concerning the Owner's right to request alternative dispute resolution with a neutral third party pursuant to California Civil Code Section 5925, *et seq.*, before the Association may initiate foreclosure against the Owner's separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

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

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

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

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

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

(h) ***Notice of Delinquent Assessment.*** The lien becomes effective on Recordation by the Board or its authorized agent of a Notice of Delinquent Assessment (***"Notice of Delinquent Assessment"***) securing the payment of any Assessment or installment thereof levied by the Association against any Lot Owner, as provided in California Civil Code Section 5675. The Notice of Delinquent Assessment must identify (1) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and Recording the Notice of Delinquent Assessment, (2) the amount of collection costs incurred, including reasonable attorneys' fees, (3) a sufficient description of the Lot that has been assessed, (4) the Association's name and address, (5) the name of the Owner of the Lot that has been assessed, and (6) if the lien is to be enforced by non-judicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent and must be mailed in the manner required by California Civil Code Section 2924b to the Owner of record of the Lot no later than ten (10) calendar days after Recordation. The lien relates only to the individual Lot against which the Assessment was levied and not to the Community as a whole.

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

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

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

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

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

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

(b) The decision to initiate foreclosure after Recording a Notice of Delinquent Assessment shall be made only by the Board and may not be delegated to an Association agent. The Board shall approve the decision by a majority vote of the Board members in an executive session. The Board shall record the vote in the minutes of the next Board meeting open to all members. The Board shall maintain the confidentiality of the Owner

or Owners by identifying the matter in the minutes by the Lot number, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days before any public sale.

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

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

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

12.2.4 **Priority of Assessment Lien.** Mortgages Recorded before a Notice of Delinquent Assessment have lien priority over the Notice of Delinquent Assessment. Sale or transfer of any Lot does not affect the Assessment lien, except that the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a First Mortgage extinguishes the lien of such Assessments as to payments which became due before such sale or transfer. No sale or transfer relieves such Lot from liens for any Assessments thereafter becoming due. No Person who obtains title to a Lot pursuant to a judicial or non-judicial foreclosure of the First Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Lot which became due before the acquisition of title to the Lot by such Person. Such unpaid share of Common Expenses or Assessments is a Common Expense collectible from all Owners including such Person. The Association may take such action as is necessary to make any Assessment lien subordinate to the interests of the California Department of Veterans Affairs under its Cal-Vet loan contracts as if the Cal-Vet loan contracts were First Mortgages.

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

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

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

12.3 **ENFORCEMENT OF BONDED OBLIGATIONS.** If (a) the Common Area Improvements in any Phase are not completed before issuance of a Public Report for such Phase by the DRE, and (b) the Association is an obligee under a bond or other arrangement (***"Bond"***) required by the DRE to secure performance of Declarant's commitment to complete such Improvements, then the following provisions of this Section will be applicable:

12.3.1 **Consideration by the Board.** The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any such Improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area 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.** Any dispute between the Association or any Owners, on the one hand, and the Declarant, or any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of the Declarant (each, a ***"Declarant Party,"*** and collectively the ***"Declarant Parties"***), on the other hand, which dispute:

(a) Arises under this Declaration or otherwise relates to the Community; and

(b) Involves neither Common Area completion bonds, nor the collection of delinquent Assessments from Declarant; and

(c) Concerns an amount in controversy that is greater than Five Thousand Dollars ($5,000), and

(d) Is not a Right to Repair Law Claim.

shall be a "Dispute" for purposes of this Section 12.4.

All Disputes shall be resolved in accordance with the alternative dispute resolution procedures commencing at Section 12.4.1 below. All Right to Repair Law Claims shall be resolved in accordance with the statutory "prelitigation procedure" set out in Chapter 4 of the Right to Repair Law (commencing at California Civil Code Section 910) in lieu of the procedures set forth in Sections 12.4.1 to 12.4.3 below, and if not resolved by the statutory "pre-litigation procedure," then submitted to judicial reference or binding arbitration as described in Sections 12.4.4 and 12.4.5 below:

12.4.1 **Notice.** Any Person with a Dispute shall give written notice of the Dispute by personal or mail service as authorized by Code of Civil Procedure Sections 415.10, 415.20, 415.21, 415.30 or 415.40 to the party to whom the Dispute is directed (***"Respondent"***) describing the nature of the Dispute and any proposed remedy (the ***"Dispute Notice"***).

12.4.2 **Right to Inspect and Correct.** Commencing on the date the Dispute Notice is delivered to the Respondent and continuing until the Dispute is resolved, the Respondent and its representatives have the right to (a) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, (b) enter the Community to inspect any areas that are subject to the Dispute, and (c) conduct inspections and testing (including destructive or invasive testing) in a manner deemed appropriate by the Respondent. If

Respondent elects to take any corrective action, Respondent and its representatives shall be provided full access to the Community to take and complete the corrective action. Respondent is not obligated to take any corrective action. Respondent, with the consent of Declarant, has the right to select the corrective action Respondent believes is appropriate. The right to inspect and correct granted in this Section is in addition to the rights granted in the Calderon Act at California Civil Code Section 6000. The procedures established in the Calderon Act may be implemented before, during or after the procedure in this Section is implemented.

12.4.3 **Mediation**. If the Dispute is not resolved within ninety (90) days after the Respondent receives the Dispute Notice, any party may submit the Dispute to mediation by delivering a request for mediation (***"Mediation Notice"***) in the same manner as allowed for delivery of the Dispute Notice. The Dispute shall be mediated pursuant to (a) the Judicial Arbitration and Mediation Service (***"JAMS"***) mediation procedures in existence when the Dispute Notice is delivered, as modified by this Section, or (b) the mediation procedures of any successor to JAMS in existence when the Dispute Notice is delivered, as modified by this Section, or (c) mediation procedures approved by the parties of any entity offering mediation services that are acceptable to the parties to the Dispute (each, a ***"Party"*** and collectively, the ***"Parties"***). Except as provided in Section 12.4.5, no Person shall commence litigation regarding a Dispute without complying with this Section 12.4.3.

(a) ***Selection of Mediator***. The mediator shall be selected within sixty (60) days from delivery of the Mediation Notice. The mediator shall be selected by mutual agreement of the Parties. If the Parties cannot agree on a mediator, the mediator shall be selected by the entity providing the mediation service. No Person shall serve as a mediator in any Dispute in which the Person has any financial or personal interest in the result of the mediation, except by the written consent of all Parties. Before accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

(b) ***Position Letter; Pre-Mediation Conference***. No later than sixty (60) days after selection of the mediator, each Party to the Dispute shall submit a letter (***"Position Statement"***) containing (i) a description of the Party's position concerning the issues that need to be resolved, (ii) a detailed description of the defects allegedly at issue, and (iii) a suggested plan of repair, remediation or correction. The mediator may schedule a pre-mediation conference. All Parties shall attend unless otherwise mutually agreed. The mediation shall be commenced within twenty (20) days after submittal of all Position Statements and shall be concluded within fifteen (15) days after the mediation began unless either the mediator extends the mediation period, or the Parties mutually agree to extend the mediation period. The mediation shall be held in the County or another place mutually acceptable to the Parties.

(c) ***Conduct of Mediation***. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate to achieve the goal of settling the Dispute. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement. The mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the Parties agree to and do assume the expenses of obtaining such advice. The mediator shall not have the authority to impose a settlement on the Parties.

(d) ***Application of Evidence Code.*** The provisions of California Evidence Code Sections 1115 through 1128 shall be applicable to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be governed by these sections, including the sections which preclude use of material in future proceedings and the sections which provide for confidentiality of material.

(e) ***Parties Permitted at Mediation.*** Persons other than the Parties, their liability insurers, Declarant, attorneys for the Parties and the mediator may attend mediation sessions only with the permission of the Parties and the consent of the mediator. Declarant has the right to attend the mediation session even if Declarant is not one of the Parties.

(f) ***Record.*** There shall be no stenographic, video or audio record of the mediation process.

(g) ***Expenses.*** Each Party shall bear its own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation including the fees charged by the mediator and the cost of any proof or expert advice requested by the mediator shall be borne equally by each of Declarant and the Declarant Parties to whom the Dispute is directed, unless the Parties agree otherwise. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

12.4.4 **Judicial Reference.** If a Dispute remains unresolved after the mediation required by Section 12.4.3 is completed, or if a Right to Repair Law Claim remains unresolved after resort to the statutory "prelitigation procedures" described in Chapter 4 of the Right to Repair Law then any of the Parties may file a lawsuit, provided that the Association must obtain the vote or written consent of Owners other than Declarant who represent not less than sixty-seven percent (67%) of the Association's voting power (excluding the voting power of Declarant) prior to filing a lawsuit in a Dispute or Right to Repair Law Claim with Declarant or a Declarant Party. All lawsuits regarding Disputes or Right to Repair Law Claims must be resolved by general judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 through 645.1, as modified by this Section 12.4.4. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. No Party shall be required to participate in the judicial reference proceeding if all Parties against whom such Party would have necessary or permissive cross-claims or counterclaims will not or cannot be joined in the judicial reference proceeding. The general referee shall have the authority to try all issues of fact and law and to report a statement of decision to the court. The referee shall be the only trier of fact and law in the reference proceeding, and shall have no authority to further refer any issues of fact or law to any other Person unless all Parties to the judicial reference proceeding consent, or the referee determines that a conflict of interest or similar situation has arisen which would make it inappropriate for the referee to act as the trier of fact or law concerning an issue or matter. In the second alternative, an alternative judicial referee shall be selected in accordance with Section 12.4.4(b) solely for resolving or rendering a decision concerning the issue or matter involved in the conflict.

(a) ***Place.*** The proceedings shall be heard in the County.

(b) ***Referee***. The referee shall be a retired judge who served on the Superior Court of the State of California in the County with substantial experience in the type of matter in dispute and without any relationship to the Parties or interest in the Community, unless the Parties agree otherwise. The Parties to the judicial reference proceeding shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. Any dispute regarding the selection of the referee shall be resolved by the court in which the complaint is filed.

(c) ***Commencement and Timing of Proceeding***. The referee shall commence the proceeding at the earliest convenient date and shall conduct the proceeding without undue delay.

(d) ***Pre-hearing Conferences***. The referee may require pre-hearing conferences.

(e) ***Discovery***. The Parties to the judicial reference proceeding shall be entitled only to limited discovery, consisting of the exchange of the following: (i) witness lists, (ii) expert witness designations, (iii) expert witness reports, (iv) Exhibits, (v) reports of testing or inspections, and (vi) briefs. Any other discovery authorized in the California Code of Civil Procedure shall be permitted by the referee upon a showing of good cause or based on the consent of all Parties to the judicial reference proceeding.

(f) ***Motions***. The referee shall have the power to hear and dispose of motions, including motions relating to discovery, 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. The referee shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(g) ***Record***. A stenographic record of the hearing shall be made which shall remain confidential except as may be necessary for post-hearing motions and any appeals.

(h) ***Statement of Decision***. The referee's statement of decision shall contain an explanation of the factual and legal basis for the decision pursuant to California Code of Civil Procedure Section 632. The decision of the referee shall stand as the decision of the court, and upon filing of the statement of decision with the clerk of the court, judgment may be entered thereon in the same manner as if the matter had been tried by the court.

(i) ***Remedies***. The referee may grant all legal and equitable remedies and award damages in the judicial reference proceeding.

(j) ***Post-hearing Motions***. The referee may rule on all post-hearing motions in the same manner as a trial judge.

(k) ***Appeals***. The decision of the referee shall be subject to appeal in the same manner as if the matter had been tried by the court.

(l) ***Expenses.*** Each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by each of Declarant and the Declarant Parties to whom the Dispute or Right to Repair Law Claim is directed. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

12.4.5 **Binding Arbitration.** If for any reason the judicial reference procedures in Section 12.4.4 are legally unavailable or unenforceable at the time a Dispute would otherwise be referred to judicial reference, or if all necessary parties cannot be joined in the judicial reference proceeding described in Section 12.4.4, then such Dispute shall be submitted to neutral binding arbitration. ARBITRATION SHALL BE MANDATORY AND BINDING, AND SHALL BE GOVERNED BY THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT IT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT), AND CONDUCTED SUBJECT TO THE FOLLOWING PROCEDURES.

(a) ***Selection of Arbitrator.*** Any Dispute subject to this Section 12.4.5 shall be submitted to neutral binding arbitration by and pursuant to the arbitration rules and procedures of the Judicial Mediation Services (***"JAMS"***) in effect at the time the request for arbitration is submitted. If JAMS is for any reason unwilling or unable to serve as the arbitration service, the Parties shall select another reputable arbitration service mutually acceptable to all Parties. If the Parties are unable to agree on an alternative service, then any Party may petition any court of competent jurisdiction in the County to appoint such an alternative service, which appointment shall be binding on the Parties. Such arbitration shall be conducted pursuant to the rules and procedures of such alternative service in effect at the time the request for arbitration is submitted. Nothing herein shall prevent the Parties from agreeing to use an alternative arbitration service.

(b) ***Federal Arbitration Act.*** Disputes subject to arbitration under this Section 12.4.5involve and concern interstate commerce and are governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1, *et seq.*), to the exclusion of any different or inconsistent state or local law, ordinance, regulation, or judicial rule.

(c) ***Benefited Parties.*** The arbitration provisions in this Section 12.4.5 shall inure to the benefit of, and be enforceable by the Declarant Parties and each of their contractors, subcontractors, agents, vendors, suppliers, design professionals, insurers and any other person whom the applicable claimant may contend is responsible for any alleged loss, liability or damages incurred by the claimant as a result of the circumstances relating to such Dispute.

(d) ***Attorney's Fees.*** If any Dispute is submitted to arbitration, each Party shall bear its own attorneys' fees and costs (including expert costs) for the arbitration.

(e) ***Remedies***. The arbitrator is authorized to provide all recognized remedies available in law or in equity for any cause of action that is the basis of the arbitration; however, the arbitrator shall have no power to grant any remedy not available to a judge of the Superior Court of the State of California under California law or equity.

(f) ***Decision***. The decision of the arbitrator is final and binding; provided, however, that the arbitrator shall not have the power to commit errors of law or legal reasoning, and the award may be vacated or corrected for any such error on appeal to a court of competent jurisdiction in the County. Any application to confirm, vacate, modify, or correct an award rendered by the arbitrator shall be filed in any court of competent jurisdiction in the County.

(g) ***Choice of Law***. To the extent that any state or local law, ordinance, regulation, or judicial rule is inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.

(h) ***Other Proceedings***. The participation by any Party in any judicial proceeding concerning this arbitration provision or any arbitrable issue hereunder shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration agreement.

(i) ***Expenses***. The fees to initiate the arbitration shall be advanced by the Declarant and any Declarant Party. Subsequent fees and costs of the arbitration and/or the arbitrator shall be borne equally by the Parties to the arbitration; provided, however, that the fees and costs of the arbitration and/or the arbitrator ultimately shall be borne as determined in the discretion of the arbitrator. This provision does not modify any provision of a contract requiring indemnification or establishing a different allocation of costs between the Parties.

(j) ***Arbitrator***. The arbitrator appointed to serve shall be a neutral and impartial individual.

(k) ***Venue***. The venue of the arbitration shall be in the County unless the Parties agree in writing to another location.

(l) ***Severability***. If any provision of this Section 12.4.5 is determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

(m) ***Self-Executing***. This arbitration provision is self-executing. Any Dispute concerning the interpretation or the enforceability of the arbitration provisions in this Section 12.4.5, including its revocability or voidability for any cause, any challenges to the enforcement or the validity hereof, or the scope of arbitrable issues hereunder, and any defense relating to the enforcement of the arbitration agreement set forth in this Section 12.4.5, including, waiver, estoppel, or laches, shall be decided by an arbitrator in accordance with this arbitration provision and not by a court of law.

(n) ***AGREEMENT.*** BY TAKING TITLE TO ALL OR ANY PORTION OF THE COMMUNITY, THE ASSOCIATION AND EACH OWNER ARE DEEMED TO AGREE TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS SECTION 12.4.5 DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT). ACKNOWLEDGEMENT OF THE FOREGOING IS A CONDITION TO CONVEYANCE OF TITLE TO ANY PORTION OF THE COMMUNITY TO SUCH PARTICIPANT. BY TAKING TITLE TO ANY PORTION OF THE COMMUNITY SUBJECT TO THIS SECTION 12.4.5, A PARTY IS DEEMED TO HAVE AGREED TO GIVE UP ANY RIGHTS SUCH PARTY MIGHT POSSESS TO HAVE ANY DISPUTES SUBJECT HERETO LITIGATED IN A COURT OR JURY TRIAL, AS WELL AS THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. IF ANY SUCH PARTY REFUSES TO SUBMIT TO ARBITRATION AFTER TAKING TITLE TO ANY PORTION OF THE COMMUNITY AND AGREEING, IN CONNECTION THEREWITH, TO THE FOREGOING PROVISIONS, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT). BY EXECUTING ANY GRANT DEED OR OTHER INSTRUMENT CONVEYING ANY PORTION OF THE COMMUNITY, THE GRANTEE THEREIN SHALL BE DEEMED TO ACKNOWLEDGE THAT ITS AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

12.4.6 **Statutes of Limitation.** Nothing in this Section 12.4 shall be considered to toll, stay, reduce or extend any applicable statute of limitations; provided, however, that Declarant, the Declarant Parties, the Association and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 12.4.

12.4.7 **Agreement to Dispute Resolution; Waivers of Jury Trial.** DECLARANT, THE ASSOCIATION AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 12.4 TO RESOLVE ALL DISPUTES AND RIGHT TO REPAIR LAW CLAIMS AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES AND RIGHT TO REPAIR LAW CLAIMS IN ANY OTHER MANNER. DECLARANT, THE ASSOCIATION AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AND RIGHT TO REPAIR LAW CLAIMS AS PROVIDED IN THIS SECTION 12.4, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES AND RIGHT TO REPAIR LAW CLAIMS TRIED BEFORE A JURY. THIS SECTION 12.4 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

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 or 12.6 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).

ARTICLE XIII
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, a Notice of Addition or a Supplemental Declaration in reasonably detailed form must be included in the notice of any Association meeting or election at which a proposed amendment is to be considered. To be effective, a proposed amendment (other than amendment or termination by Declarant as described in Section 13.2.7(a) or minor corrections by Declarant or by the Board, as described in Sections 13.2.7(b) or 13.2.8 respectively) must be adopted by the vote, in person or by proxy, or written consent of Owners representing not less than (a) sixty-seven percent (67%) of the voting power of each Class of the Association and (b) sixty-seven percent (67%) of the Association's voting power represented by Owners other than Declarant. If, however, the provision being considered for amendment requires amendment approval by a higher percentage of the voting power than that specified in this Section, then the proposed amendment shall not be adopted unless approved by such higher percentage of the voting power. So long as Declarant has the right to appoint a majority of the members of the Board, and the VA or FHA is making or insuring a Mortgage in the Community, the prior approval of the VA or FHA (whichever is making or insuring a Mortgage) is required for any amendment to the Declaration for the purpose of terminating the Declaration, dissolving the Association (except pursuant to merger or consolidation) or conveying all of the Common Area.

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

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

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

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

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

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

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

13.2.3 **Amendment of Right to Repair Law Provisions.** Except for any amendment made by Declarant as authorized in Section 13.2.7, neither this Section 13.2.3 nor Sections 1.1.42, 1.1.65, 1.1.66, 2.1.1, 2.1.2, 2.1.3, 3.18, 4.2.6, 4.5, 12.1.7, 12.4, 13.2.7, 13.2.8 or 15.6 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).

13.2.4 **Termination Approval.** Termination of this Declaration requires approval of the Owners as provided in Section 13.2.1, and until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Right to Repair Law (including tolling periods), the prior written approval of Declarant.

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

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

13.2.7 **Amendment or Termination by Declarant.**

(a) ***Before First Closing.*** Notwithstanding any other provisions in this Article, (i) Declarant may unilaterally amend or terminate this Declaration for any purpose, until the first Close of Escrow in the Community, and (ii) Declarant may unilaterally amend or terminate a Notice of Addition or Supplemental Declaration for any purpose, until the first Close

of Escrow in the real property affected by the Notice of Addition or Supplemental Declaration to be amended or terminated. Amendment or termination shall not be effective until Declarant 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 owns any portion of the Community or the Annexable Territory) may unilaterally amend this Declaration, a Notice of Addition or a Supplemental Declaration by Recording a written instrument signed by Declarant to:

(i) Conform 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 thereof;

(vi) Supplement this Declaration, a Notice of Addition, 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;

(vii) Re-Phase any portion of the Community; and

(viii) Change any exhibit or provision of this Declaration, Notice of Addition, or Supplemental Declaration to conform to as-built conditions.

Nothing in this Section 13.2.7 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).

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

ARTICLE XIV
GENERAL PROVISIONS

14.1 **MERGERS OR CONSOLIDATIONS.** In a merger or consolidation of the Association with another association, the property, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community, together with the covenants and restrictions established on any other property, as one (1) plan. Any such merger or consolidation requires the prior written approval of the VA.

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

14.3 **NOTICES.** Except as otherwise provided in this Declaration, notice to be given to an Owner must be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one (1) or more co-Owners, or any general partner of a partnership owning a Lot, constitutes delivery to all Owners. Personal delivery of such notice to any officer or agent for the service of process on a corporation or limited liability company constitutes delivery to the corporation or limited liability company. Such notice may also be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address has been furnished, to the street address of such Owner's Lot. Such notice is deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Owners or of the Board, in which case the notice provisions of the Bylaws control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed and circulated to all Owners.

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

ARTICLE XV
DECLARANT'S RIGHTS AND RESERVATIONS

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

15.1 **CONSTRUCTION RIGHTS.** Until Declarant no longer owns any portion of the Community or the Annexable Territory, 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 Common Area, or in any portion of the Community or Annexable Territory 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 and the Annexable Territory, including designating and redesignating Phases, reshaping the Lots and Common Area, and constructing dwellings of larger or smaller sizes, values, and of different types, (e) modify, extend, postpone or terminate the annexation of any or all of the Annexable Territory, or the completion of the Community, for any purpose, including changed economic conditions, changes in Declarant's 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 Common Area 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 Lot is not eliminated.

15.2 **SALES AND MARKETING RIGHTS.** Declarant shall have the following rights related to sales 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 of the last Close of Escrow for sale of a Lot in the Community and Annexable Territory.

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

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

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

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

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

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

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

15.8 **POWER OF ATTORNEY.** Each Owner of a Lot in the Community, by accepting a deed to a Lot, shall be deemed to have:

15.8.1 Agreed and acknowledged that neither the Owners nor the Association own any interest in the Annexable Territory, which may be developed, if at all, by Declarant in its sole and absolute discretion and in accordance with Declarant's development plans; and

15.8.2 Constituted and irrevocably appointed Declarant, for so long as Declarant owns all or any portion of the Annexable Territory, as his Attorney-in-Fact, for himself and each of his Mortgagees, optionees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and thereby to have conveyed a Power of Attorney coupled with an interest to Declarant as his Attorney in Fact to prepare, execute, acknowledge and Record any instrument for all or any portion of the Annexable Territory. However, nothing set forth herein shall be deemed or construed as an agreement by Declarant that any Owner shall be entitled to any participation in or discretion over the preparation and Recordation of an instrument for all or any portion of the Annexable Territory. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

15.9 **COOPERATION AND PARTICIPATION.**

15.9.1 **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 Lot and all notices and other documents to which a Mortgagee is entitled pursuant to this Declaration, provided that Declarant shall not be required to make written request for such notices and other documents.

15.9.2 **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 15.9.1.

(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 Common Property and the Lots 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 15.9.1 in an observer capacity only, and they shall not have any right to vote on matters coming before the Board.

15.10 **DECLARANT APPROVAL OF ACTIONS.**

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

15.10.2 **Limit on Actions.** Until the expiration of all applicable statutes of limitations or repose for the filing of a complaint or suit or other legal remedies against Declarant 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 annexation to the Community of real property other than the Annexable Territory pursuant to Section 16.2;

(c) The levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Common Area by Declarant;

(d) Any significant reduction of Association maintenance or other services; or

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

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

ARTICLE XVI
ANNEXATION OF ADDITIONAL PROPERTY

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

16.1 **ADDITIONS BY DECLARANT.** Declarant may add the Annexable Territory to the Community and bring such added territory under the general plan of this Declaration without the approval of the Association, the Board, or Owners, so long as Declarant owns any

portion of the Annexable Territory. No amendment may be made to this Section 16.1 without the prior written approval of Declarant for so long as Declarant owns any portion of the Community or the Annexable Territory.

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

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

16.4 **NOTICE OF ADDITION.** The additions authorized under Sections 16.1 and 16.2 must be made by Recording in Official Records a Notice of Addition against the real property to be added to the coverage of this Declaration. The Notice of Addition must (a) reference by instrument number this Declaration and the date of its Recordation, (b) describe with specificity the Added Territory, (c) state that this Declaration shall apply to the Added Territory, and (d) describe the land use designations in the Added Territory. The Notice of Addition for any addition under Section 16.1 must be signed by Declarant. The Notice of Addition for any addition under Section 16.2 must be signed by at least two (2) officers of the Association to certify that the Owner approval required under Section 16.2 was obtained. On Recordation of the Notice of Addition, the Added Territory will be annexed to and constitute a part of the Community and it will become subject to this Declaration. Subject to Section 16.2, the Owners of Lots in the Added Territory will automatically acquire Membership in the Association.

In a Notice of Addition under Section 16.1, Declarant shall have the right, if it determines in the exercise of its sole discretion that the Added Territory will not benefit from Improvements or services which are Common Expenses of the Association, to designate that such Common Expense items will not be shared by the Added Territory, provided that such designation is also identified in the current Budget reviewed by the DRE for the Added Territory annexed, and provided that such designation does not result in an increase in Common Assessments in excess of the limit set in this Declaration.

16.5 **DE-ANNEXATION AND AMENDMENT.** In addition to the rights to amend or terminate a Notice of Addition granted elsewhere in this Declaration or in a Notice of Addition, Declarant may also amend a Notice of Addition for purposes other than those

described in Section 13.2.7 or delete real property from the coverage of this Declaration and the Association's jurisdiction so long as Declarant is the owner of all of such real property and provided that (a) an amending instrument or a Notice of Deletion of Territory, as applicable, is Recorded in the same manner as the applicable Notice of Addition was Recorded, (b) Declarant has not exercised any Association vote with respect to any portion of such real property, (c) Assessments have not yet commenced with respect to any portion of such real property, (d) Close of Escrow has not occurred for the sale of any Lot in such real property, and (e) the Association has not made any expenditures or incurred any obligations with respect to any portion of such real property. No amendment may be made to this Section 16.5 without the prior written approval of Declarant, for so long as Declarant owns any portion of the Community or the Annexable Territory.

ARTICLE XVII
PROVISIONS FOR BENEFIT OF THE COUNTY.

17.1 **COUNTY RIGHTS.** The County of Riverside is an express third-party beneficiary of the covenants, conditions, restrictions, easements and servitudes provided in this Declaration. Accordingly, the County has the continuing right, but not the obligation, to enforce any provisions of this Declaration.

17.2 **TERM.** This Declaration shall remain in effect for a term of sixty (60) years, with automatic renewals of ten (10) years each thereafter, until terminated by the Declarant or Association (as applicable) with the written consent of the County.

17.3 **COUNTY-REQUIRED PROVISIONS.** Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

17.3.1 The Association established herein shall manage and continuously maintain the Common Area, more particularly described in Exhibit D, attached hereto, and shall not sell or transfer the Common Area or any part thereof, absent the prior written consent of the Planning Department of the County of Riverside or the County's successor-in-interest.

17.3.2 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.

17.3.3 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 of the County's successor-in-interest. A proposed amendment shall be considered "substantial" if it affects the extent, usage, or maintenance of the Common Area established pursuant to the Declaration.

17.3.4 In the event of any conflict between this Declaration and the Articles of Incorporation, the Bylaws or the Association Rules and Regulations, if any, this Declaration shall control.

17.3.5 The management and maintenance of the Common Area shall include the following BMPS to reduce storm water pollution: All pesticides shall be applied in strict accordance to pesticide laws as stated in the State of California Agricultural Code. All pesticide applicators shall be certified by the State as a Qualified Applicator or be directly supervised by a Qualified Applicator. All fertilizers shall be applied at the rate stipulated by the manufacturer. Fertilizer Applicators shall be trained in the proper procedures of determining fertilizer rates and calibration of equipment. Fertilizer shall be applied in such a manner as to avoid application onto hardscape surfaces. Annual soil test are recommended to advise on which fertilizer elements are needed to avoid application of unnecessary elements, or over application. The local water agency or resource conservation district can assist with detailed information concerning this BMP. (BMP N3) The Association is required to implement trash management and litter control procedures in the Common Areas aimed at reducing pollution of drainage water. The Association may contract with their landscape maintenance firms to provide this service during regularly scheduled maintenance, which should consist of litter patrol, emptying trash receptacles in Common Areas, noting trash disposal violations by homeowners or businesses, and reporting the violations to the association for investigation. (BMP N5) The Association is required to have its privately owned streets and parking lots swept prior to the storm season, no later than October 15th of each year (BMP N6). BMPs must be followed by the Association in the Association Property and by Owners on their Lots. 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.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has executed this instrument on May 16th, 2024.

DECLARANT:

KB HOME Cal Management Services LLC, a Delaware limited liability company

By: _____
Name: Scott Hansen
Title: VP, Forward Planner

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

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____

CALIFORNIA ALL-PURPOSE 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 Riverside

On May 16, 2024 before me, Judith Mireles, Notary Public, personally appeared Scott Hansen, 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.

JUDITH MIRELES
Notary Public - California
Riverside County
Commission # 2417491
My Comm. Expires Sep 22, 2026

Judith Mireles, Notary Public

(SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF ANNEXABLE TERRITORY

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

Tract No. 31818-01, as shown on a Subdivision Map, Filed on _____, __, in Book ____, Pages ___ to ____, inclusive, of Maps, in the Office of Riverside County Recorder;

Parcels 5 and 6 of Parcel Map 38418; as shown on a Subdivision Map, Filed on 8/23/2023, __, in Book 256, Pages 93 to 101, inclusive, of Maps, in the Office of Riverside County Recorder.

EXHIBIT B

ARTICLES OF INCORPORATION OF THE ASSOCIATION

ARTICLES OF INCORPORATION

OF

JBJ RANCH COMMUNITY ASSOCIATION

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

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

THREE: The Corporation's initial agent for service of process is John Abel, whose business address is 4100 Newport Place, Suite 790, Newport Beach, CA 92660.

FOUR: The Corporation's street and mailing address is 4100 Newport Place, Suite 790, Newport Beach, CA 92660.

FIVE: The Corporation is organized and operated exclusively as a homeowner's association within the meaning of Section 23701t of the California Revenue and Taxation Code and Section 528 of the Internal Revenue Code, and it shall have and exercise any and all powers, rights and privileges which a corporation organized under the California Nonprofit Mutual Benefit Corporation Law may now or hereafter have or exercise, provided that the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of the Corporation, which is to operate a homeowners association and to manage a common interest development under the Davis-Stirling Common Interest Development Act. The Corporation does not have a corporate office. The common interest development is near the intersection of Bosley Lane and Dublin Pl, California 92883-0000.

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

SEVEN: The Corporation has no managing agent.

EXHIBIT C

BYLAWS OF THE ASSOCIATION

BYLAWS

OF

JBJ RANCH COMMUNITY ASSOCIATION

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BYLAWS
OF
JBJ RANCH COMMUNITY ASSOCIATION

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CERTIFICATE OF SECRETARY

BYLAWS

OF

JBJ RANCH 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 JBJ Ranch (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 JBJ Ranch Community Association. The principal office of the Association, if any, shall be located in the County or such other location as the Board may designate.

1.3 **APPLICATION.** These Bylaws apply to the residential planned development known as JBJ Ranch (***"Community"***), which is located in the County. 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 Governing Documents of the Community. Use of any Lot in the Community signifies acceptance and ratification of these Bylaws.

ARTICLE II
BOARD OF DIRECTORS

2.1 **NUMBER OF DIRECTORS.**

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

2.1.2 **Elected Directors.**

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 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 2.2.3 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 Lot 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 Lot 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) Remain at all times an Owner of a Lot in the Community; and

(b) 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.

(c) Not be subject to disqualification pursuant to Sections 2.2.3 or 2.2.5 below.

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 Lot 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 Lot 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 2.2.3 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.

2.3.5 **Election by Acclamation**. Notwithstanding the secret balloting requirement in California Civil Code Section 5100, *et seq.*, or any contrary provision in the Governing Documents, when, as of the deadline for submitting nominations provided for in subdivision (a) of California Civil Code Section 5115, the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the inspector or inspectors of the elections, the Association may, but is not required to, consider the qualified candidates elected by acclamation if all of the conditions set forth in California Civil Code Section 5103 are satisfied.

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, and at any future election in which all Board seats are to be filled, 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.

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 2.2.3 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. The term of office of the replacement Director shall be the unserved remainder of the replaced Director's term.

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.

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) Lots are included in the Community, by the vote of Owners representing a majority of the Association's total voting power (including votes attributable to Declarant), and (b) once fifty (50) or more Lots are included in the Community, by the vote of Owners representing a majority of a quorum of Owners.

However, if the entire Board is not removed as a group pursuant to a single vote, no individual Director may be removed if the number of votes cast against removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting at which the petition for removal is received by the Board or on the date set by the Board for the removal election. If any Directors are removed, new Directors may be elected at the same meeting. The term of office of each replacement Director shall be the unserved remainder of the removed Director's term, unless otherwise set by the Owners in the election to fill the vacant seats.

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 **Error! Reference source not found.** 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 from the Association for their services as Directors. However, (a) nothing in these Bylaws precludes any Director from serving the Association in some other capacity other than Director or officer from receiving compensation therefor, and (b) any Director may be reimbursed for actual expenses incurred in performance of Association duties, and (c) nothing in these Bylaws precludes any agent, officer, employee or director of Declarant, or those of an affiliate of Declarant, from receiving from the Declarant or the affiliate any salary or other compensation while serving as a Declarant-appointed Director.

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 Lot 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 to discuss the appropriate fine, penalty, or other form of discipline that maybe imposed. The Member may attend the portion of the executive session that is set aside to present its defense, but not any portion of the executive session that is set aside for deliberation by the Board or for discussion of other matters. 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 Lot 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 Common Area 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 Lot, by newsletter or similar means of communication, or, with the consent of the Member, by electronic means. Notice of a meeting need not be given to any Director who has signed a waiver of notice or written consent to holding of the meeting.

2.8.9 **Waiver of Notice**. Before or after any meeting of the Board, any Director may, in writing, waive personal notice of such meeting. Attendance by a Director at any Board meeting waives the requirement of personal notice. If all Directors are present at a Board meeting, no notice to Directors is required and any business may be transacted at such meeting. The transactions of any Board meeting, however called and noticed or wherever held, are valid as though had at a meeting duly held after regular call and notice, if (a) a quorum is present, (b) notice to the Owners of such meeting was posted as provided in Sections 2.8.2 and 2.8.3, and (c) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. The Secretary shall file all such waivers, consents and approvals with the Association's records or make them a part of the minutes of the meeting.

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

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

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

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

2.10.2 **Payment of Taxes**. Payment of taxes and assessments which are, or could become, a lien on any property owned by the Association 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 Lot as necessary in connection with construction, maintenance or emergency repair for the benefit of the Common Property or the Owners in common.

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

2.10.11 **Officers, Agents and Employees**. The power and duty to select, appoint and remove all Association officers, agents and employees, to prescribe such powers and duties for them as may be consistent with law and with the Governing Documents, to fix compensation of agents and employees, to require from officers, agents, and employees 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 designate any place in the County for holding any meetings of Owners consistent with the provisions of Section 4.2.4; and to adopt and use a corporate seal and to alter the form of such seal.

2.10.17 **Rules for Elections; Inspector of Elections**. The power and duty to adopt rules governing elections in accordance with the procedures prescribed in California Civil Code Section 5105, and the power and duty to select an independent inspector of election in accordance with California Civil Code Section 5110. In accordance with California Civil Code Section 5105(h), election rules adopted pursuant to California Civil Code Section 5105 shall not be amended less than ninety (90) days prior to an election.

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

2.11.1 **Sale or other Transfer of Property**. The power but not the duty to sell property of the Association. Approval from Owners representing at least a majority of the

Association's voting power must be obtained before property of the Association having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for the Fiscal Year is sold in a single Fiscal Year.

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

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

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

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

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

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

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

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

(vi) A contract reviewed by DRE.

(vii) Contracts in which the Association enters into litigation or any alternative dispute resolution procedure when the Association's obligation to pay for

services is set in whole or in part on a contingency basis, but only if such contracts are (1) contracts for collection of assessments or other accounts receivable, (2) or contracts involving evaluation of services, or (3) contracts with a total amount to be paid by the Association not in excess of Forty Thousand Dollars ($40,000.00).

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

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

(d) Reimbursing Directors for expenses incurred in carrying on the business of the Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

> **"This summary of the Association's policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."**

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

2.12.5 **Assessment and Foreclosure Notice**.

(a) The Association shall distribute the written notice described in subsection (b) below to each Association member during the 30-90-day period immediately preceding the beginning of the Association's Fiscal Year. The notice shall be printed in at least 12-point type. An Association member may provide written notice of a secondary address to the

Association by facsimile transmission or United States mail. If a secondary address is provided, the Association shall send any correspondence and legal notices required pursuant to these Bylaws both to the primary and the secondary address.

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

"NOTICE ASSESSMENTS AND FORECLOSURE

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

ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars ($1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars ($1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the Civil Code, inclusive)

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

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

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

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

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

PAYMENTS

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

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

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

(commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

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

MEETINGS AND PAYMENT PLANS

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

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)"

2.12.6 **Accounts**. On at least a monthly basis, the Board shall: (a) cause to be completed and review a current reconciliation of the Association's operating and reserve accounts, (b) review the current Fiscal Year's actual operating revenues and expenses compared to the current year's Budget, (c) review the latest account statements prepared by the financial institutions where the Association keeps its operating and reserve accounts, (d) review an income and expense statement for the Association's operating and reserve accounts, (e) review the check register, monthly general ledger, and delinquent Assessment receivable reports, and (f) fulfill any additional duties established by California Civil Code Section 5500. The signatures of two (2) Directors are required for the withdrawal of money from the Association's reserve accounts, and notwithstanding anything to the contrary in the Governing Documents, transfers of greater than ten thousand dollars ($10,000.00) or five percent (5%) of the Association's total combined reserve and operating account deposits, whichever is lower, shall not be authorized without the prior written approval of the Board. As used in this Subsection, the term "reserve accounts" means Budgeted funds that the Board has designated for use to defray the future repair and replacement of, or additions to, those major components of the Association Property which the Association is obligated to maintain. Provided, however, that if the Board meets less frequently than monthly, the monthly review requirements of this Section may be met when every Director, or a subcommittee of the Board consisting of the Treasurer/Chief Financial Officer and at least one (1) other Director, reviews the materials specified in this Section independent of a Board meeting, so long as the review(s) are ratified at the Board meeting subsequent to the review(s), and the ratification is reflected in the minutes of the Board meeting.

2.12.7 **Reserve Study**. The Board shall cause a study of the reserve account requirements of the Community to be conducted in accordance with California Civil Code

Section 5550, *et seq.* As used in this Subsection, "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components of the Common Property which the Association is obligated to maintain.

ARTICLE III
OFFICERS

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

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

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

3.4 **COMPENSATION.** No officer may receive from the Association any compensation for services performed in the conduct of the Association's business; however (a) nothing in these Bylaws precludes any officer from serving the Association in some capacity other than that of an officer or Director and receiving compensation therefor, and (b) any officer may be reimbursed by the Association for actual expenses incurred in the performance of Association duties. Appointment of any officer does not create contractual rights of compensation for services performed by such officer. Nothing in these Bylaws precludes any agent, officer, employee, or director of Declarant or those of an affiliate of Declarant, from receiving from the Declarant or the affiliate any salary or other compensation while serving as an officer of the Association.

3.5 **PRESIDENT.** The President is the chief executive officer of the Association and shall (a) preside at all Association and Board meetings, (b) have the general powers and duties which are usually vested in the office of the President of a corporation, and (c) subject to the control of the Board, have general supervision, direction and control of the Association's business. The President is ex officio a member of all standing committees and has such other powers and duties as may be prescribed by the Board or these Bylaws.

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

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

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

ARTICLE IV
OWNERS

4.1 OWNER VOTING RIGHTS.

4.1.1 **Classes of Membership**. The Association has two (2) classes of Membership, as described in the Declaration. The Class A and Class B Memberships are voting Memberships. However, the Declarant's Board Appointment Right is to be exercised solely for the appointment of Directors in accordance with these Bylaws and the Declaration. Until the expiration of Declarant's Board Appointment Right, Declarant shall not cast any Class A or Class B vote to elect any Director.

4.1.2 **Interpretation**. Any provision of the Bylaws which requires the vote or written consent of a specified percentage of the Association's voting power (i.e., actions requiring more than merely the vote or written consent of a majority of a quorum), requires the approval of such specified percentage of all of the following: (a) the Class A Membership; (b) the Class B Membership (so long as a Class B Membership exists); (c) the Association's total voting power; and (d) the voting power represented by Owners other than Declarant. Whenever a reference is made in these Bylaws or the Declaration to the Association's voting power, it is a

reference to the voting power of the Class A and Class B Memberships, and not to the Board Appointment Right of Declarant.

4.1.3 **Ownership by Legal Entity**. As described in Section 2.2.4 above, an Entity Owner shall have the power to designate in writing to the Association one (1) natural person as its Entity Owner Representative for purposes of exercising the Entity Owner's voting rights attributable to such Lot and for qualification to serve on the Board of Directors. Where no designation of an Entity Owner Representative is made or if the designation is revoked, the vote for the Lot shall be exercised as determined by the Entity Owner. Fractional votes shall not be allowed. 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.

4.2 **OWNER MEETINGS.**

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

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

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

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

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

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

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

4.2.8 **Consent of Absentees; Waiver of Notice.** The actions taken at any meeting of Owners, held without regular call and notice, are valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present either in person or by proxy, and (b) either before or after the meeting, each of the Owners not present in person or by proxy signs (1) a written waiver of notice, (2) a consent to the holding of such meeting, or (3) an approval of the minutes thereof. The Secretary shall file all such waivers, consents or approvals with the corporate records or make them a part of the minutes of the meeting. In addition, notice of such meeting shall be deemed given to any person who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

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

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

4.2.11 **Proxies.** Votes may be cast in person or by proxy. Proxies must be in writing, comply in form with the requirements of California Civil Code Section 5130, and be filed with the Secretary in advance of each meeting. Every proxy is revocable and automatically ceases to have any further legal effect after completion of the meeting for which the proxy was filed. Any form of proxy or written ballot distributed by any Person to the Owners must afford the opportunity to specify a choice between approval and disapproval of each matter or group of

matters to be acted on, except it is not mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice. The proxy must also identify the Person authorized to exercise the proxy and the length of time it will be valid. No proxy is valid concerning a vote on any matter described in California Corporations Code Section 7613(g) unless the general nature of the proposal was described in the proxy.

4.2.12 **Notice**. The Secretary shall send to each Owner of record, and to each first Mortgagee who has filed a written request for notice with the Secretary, a notice of each annual or special meeting. The notice must be sent by first-class mail, at least ten (10) but not more than forty-five (45) days before the meeting. The notice must state the purpose for the meeting as well as the day, hour and place where it is to be held. The notice may establish time limits for speakers and nominating procedures for the meeting. The notice must specify those matters the Board intends to present for action by the Owners, but, except as otherwise provided by law, any proper matter may be presented for action at the meeting. The notice of any meeting at which Directors are to be elected must include the names of all nominees when the notice is given to the Owners. The mailing of a notice, postage prepaid, in the manner provided in this Section, shall be considered notice served, forty-eight (48) hours after the notice has been deposited in a regular depository of the United States mail. Such notice must be posted in a conspicuous place on the Common Area and is deemed served on an Owner on posting if no address for such Owner has been then furnished the Secretary.

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

4.2.14 **Matters Requiring Secret Ballot**. Notwithstanding any other law or provision of the Governing Documents, an election regarding Assessments, selection of Board members, amendments to the Governing Documents, or the grant of exclusive use of Common Area under California Civil Code Section 4600, shall be held by secret ballot according to the procedures set forth in California Civil Code Section 5100 *et seq.* and Section 2.3.3 above. The Association shall provide general notice in accordance with California Civil Code Section 5115(b) at least thirty (30) days before the ballots are distributed.

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

determining Owners entitled to vote, Owners on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

4.4 **ACTION WITHOUT MEETING.** Any action which may be taken at a meeting of the Owners may be taken without a meeting by written ballot of the Owners, according to the provisions of California Civil Code Section 5115 and California Corporations Code Section 7513. Solicitations for ballots must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received to be counted. The form of written ballot must afford an opportunity to specify a choice between approval and disapproval of each matter and must provide that, where the Owner specifies a choice, the vote shall be cast in accordance therewith. Receipt within the time period specified in the solicitation of (i) ballots which equal or exceed the quorum which would be required if the action were taken at a meeting, and (ii) approvals which equal or exceed the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast, constitutes approval by written ballot.

ARTICLE V
AMENDMENTS

These Bylaws may be amended by the vote or written consent of Owners representing at least (a) a majority of the voting power of each class of the Owners, and (b) a majority of the Association's voting power represented by Owners other than Declarant; provided that the specified percentage of each class of Owners necessary to amend a specific provision of these Bylaws may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. These Bylaws may be amended by a majority of the entire Board, (1) at any time before the Close of Escrow for the sale of the first Lot, or (2) if the amendment is within the Board's power to adopt without Owner approval pursuant to the California Corporations Code and either (a) the proposed amendment conforms the Bylaws to California law or the requirements of DRE, FHFA, FHA, VA, Fannie Mae, Ginnie Mae or Freddie Mac, or (b) the proposed amendment corrects a typographical error in the Bylaws. Any amendment to these Bylaws which materially affects the rights of Mortgagees as described in Article 11 or Section 13.2 of the Declaration must be approved by at least the percentage of Mortgagees specified in the applicable provision of Article 11 or Section 13.2 of the Declaration. If an amendment to these Bylaws materially affects matters listed in both Article 11 and Section 13.2 of the Declaration, then the amendment must be approved pursuant to the requirements of both Article 11 and Section 13.2 of the Declaration. Notwithstanding anything to the contrary in these Bylaws or in the other Governing Documents of the Association, during the term of Declarant's Board Appointment Right (described in Section 2.3.1 above), no amendment concerning the Board Appointment Right shall be effective without the prior written consent of the Declarant, which consent it may withhold in its sole discretion.

ARTICLE VI
MISCELLANEOUS

6.1 **RELINQUISHMENT OF CONTROL OVER INITIATION OF RIGHT TO REPAIR LAW CLAIM.** Beginning on the date of the first annual meeting of the Owners,

Declarant relinquishes control over the Association's ability to decide whether to initiate a Right to Repair Law Claim. This means that Declarant and Directors who are current employees or agents of Declarant or elected by a majority of votes cast by Declarant whether appointed by exercise of Declarant's Board Appointment Right or 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 Association Board or Owners to initiate a Right to Repair Law Claim.

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

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

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

6.5 **AVAILABILITY OF ASSOCIATION DOCUMENTS.**

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

6.5.2 **Inspection Rights.** Subject to reasonable Rules and Regulations adopted from time to time by the Board, the Association shall make Association Documents available for the time periods and within the timeframes provided in California Civil Code Sections 5210(a) and (b) for inspection and copying by an Association member, or the member's designated representative. The Association may bill the requesting member for the direct and actual cost of copying requested documents. The Association shall inform the member of the amount of the copying costs before copying the requested documents. The Association shall permit Association members to verify the accuracy of their individual information on the candidate registration list and voter list maintained pursuant to California Civil Code Section 5105(a)(7) at least thirty (30) days before election ballots are distributed.

6.5.3 **Manner of Inspection**. The Association shall make the specified Association Documents available for inspection and copying in compliance with California Civil Code Sections 5205 and 5215. The inspection and copying rights provided in these Bylaws are subject to the rights and restrictions set forth in California Civil Code Sections 5200, *et seq.*

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

6.5.5 **Distribution of Records on Sale or Transfer of Title**. No later than ten (10) days after the Association receives written request from any Owner, the Association shall provide to that Owner a copy of each of the documents listed in California Civil Code Section 4525 that have been requested by the Owner.

6.5.6 **Distribution of Budget, Minutes**. Owners must be notified in writing when the budget required in Section 2.12.1 is distributed or at the time of any general mailing to the entire Association Membership of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

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

6.7 **CHANGES IN APPLICABLE LAW**. Provisions of various laws, including the Davis-Stirling Common Interest Development Act, various provisions of the California Corporations Code, including the General Corporation Law at Section 100, the Nonprofit Corporation Law at Section 5000, *et seq.*, and the Nonprofit Mutual Benefit Corporation Law at Section 7000, *et seq.*, or the Federal Fair Housing Act codified at Title 42 United States Code, Section 3601, *et seq.*, may in the future be amended, in which case such amendment will be deemed to supplement or override applicable provisions of these Bylaws (as applicable).

ARTICLE VII
NOTICE AND HEARING PROCEDURE

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

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

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

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

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

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

The date for the hearing may be not less than fifteen (15) days after the date the notice of hearing is mailed or delivered to the Respondent. The Respondent is entitled to attend the hearing, submit a statement of defense to the Board in advance of the hearing, or present a statement of defense and supporting witnesses at the hearing. If the Respondent does not attend the hearing, the Respondent waives these rights.

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

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

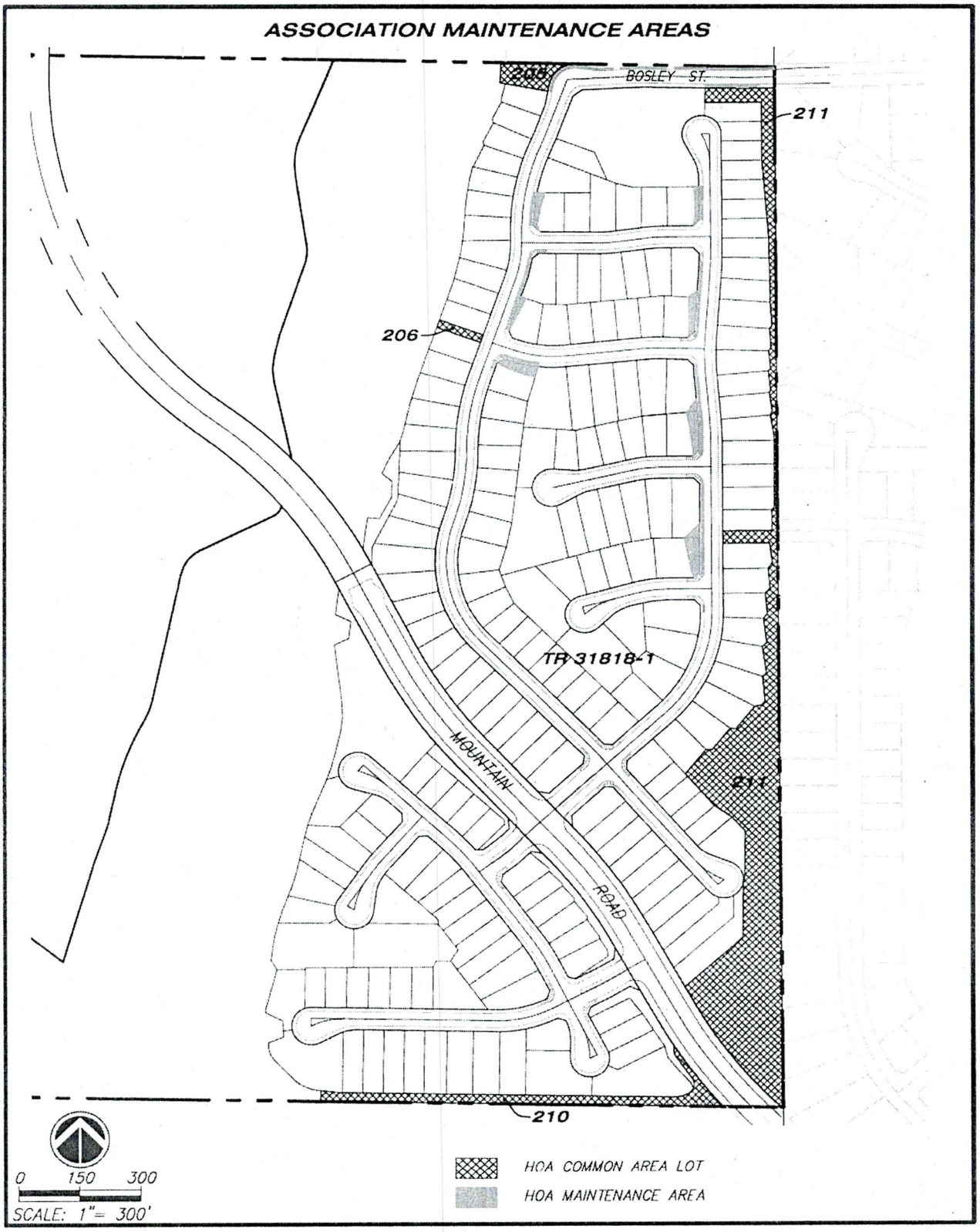
7.5 **LIMITS ON REMEDIES**. The Board's failure to enforce the Governing Documents does not waive the right to enforce them. The remedies provided by the Governing Documents are cumulative and not exclusive. However, any individual Owner must exhaust all available internal Association remedies prescribed by the Governing Documents before that

Owner may resort to a court of law for relief concerning any alleged violation of the Governing Documents by another Owner.

[CERTIFICATE OF SECRETARY ON NEXT PAGE]

EXHIBIT D

APPROXIMATE LOCATIONS OF COMMON AREAS IN PHASE 1



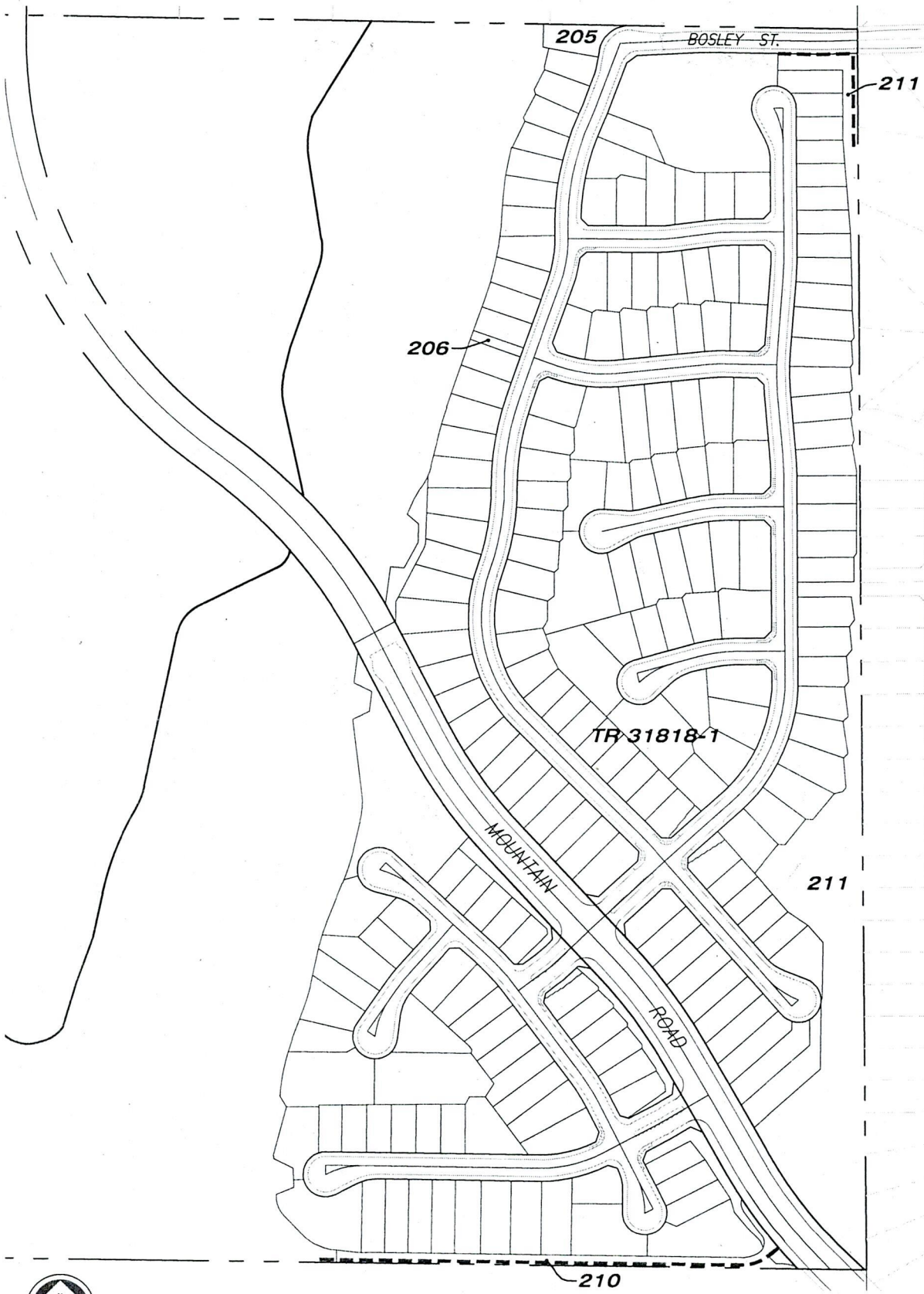
March 14, 2023 at 5:17pm P:\JBS Ranch\1900-Offsite\1419-Legal_Agreements\CC&R's\Exhibit D.dwg by Keller on MRC-JASONK

1589155.4
3/20/23

EXHIBIT E

APPROXIMATE LOCATIONS OF COMMUNITY WALLS IN PHASE 1 OF THE COMMUNITY

COMMUNITY WALL EXHIBIT



0 150 300

SCALE: 1"= 300'

---- COMMUNITY WALL

March 24, 2023 at 1:53pm P:\JBJ Ranch\1000-Offsite\1410-Legal_Agreements\CC&R's\Exhibit E.dwg by keller on MPLC-JASONLT