

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

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

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**TERMINATION  
OF  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR WINCHESTER HILLS (TRACT NO. 30266-2)**

This Termination of Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Winchester Hills Tract No. 30266-2 ("Termination") is made this 21st day of October, 2025 ("Effective Date"), by KB HOME Cal Management Services LLC, a Delaware limited liability company ("Successor Declarant"), with reference to the facts set forth below.

**RECITALS**

A. The Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Winchester Hills (Tract No. 30266-2) was recorded on December 29, 2008 as Document No. 2008-0674688, in the Official Records of Riverside County, California ("Declaration").

B. Successor Declarant acquired all rights, title and interest in the Property pursuant to that certain Grant Deed recorded on October 18, 2024 as Document No. 2024-0314272, in the Official Records of Riverside County, California.

C. The Declaration encumbers the real property described on Exhibit "A" attached hereto and incorporated herein ("Property").

D. Pursuant to Section 11.2.3 of the Declaration, Successor Declarant has the right to terminate the Declaration with the approval of the Owners. Successor Declarant is the sole owner of the Property.

E. Successor Declarant desires to terminate the Declaration in its entirety as of the Effective Date hereof.

NOW, THEREFORE, Successor Declarant hereby declares as follows:

1. **Incorporation of Recitals.** The Recitals of this Termination are true and correct and are incorporated herein by this reference as if fully set forth at this point.

2. **Definitions.** All capitalized words and phrases used herein and not otherwise defined in this Termination shall have the meaning given them in the Declaration.

3. **Termination of Declaration.** Successor Declarant hereby terminates the Declaration in its entirety, as of the Effective Date. From and after the date of this Termination, the Declaration shall have no further force or effect.

IN WITNESS WHEREOF, Successor Declarant has executed this Termination as of the date set forth above.

**SUCCESSOR DECLARANT:**

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

By:  \_\_\_\_\_

Name: Scott Hansen

Title: VP, Forward Planning

# 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.

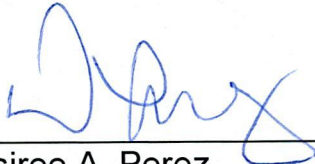
State of California }

County of Riverside }

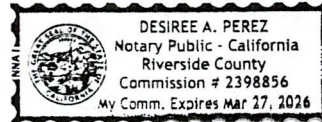
On OCT 21 2025, before me, Desiree A. Perez, Notary Public, personally appeared Scott Hansen, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their 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.



Desiree A. Perez



(SEAL)

**CONSENT OF RIVERSIDE COUNTY**

The undersigned hereby consents to the recordation of this Termination of Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Winchester Tract No. 30266-2, which encumbers the real property owned by the Successor Declarant as described in Exhibit "A" attached hereto.

Date: \_\_\_\_\_

COUNTY OF RIVERSIDE:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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 \_\_\_\_\_, 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 \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF MENIFEE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

MAP FILED IN BOOK 431, PAGES 82 THROUGH 88, INCLUSIVE OF MAPS, RECORDS OF RIVERSIDE COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID LOT 12;

THENCE NORTH 89°55'47" WEST ALONG THE NORTHERLY LINE OF SAID LOT 12, A DISTANCE OF 411.87 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0°04'13" WEST, A DISTANCE OF 134.81 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 637.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 27°55'34" WEST, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF SAID LOT 12;

THENCE SOUTH 27°55'34" EAST ALONG SAID RADIAL LINE, A DISTANCE OF 37.00 FEET A POINT ON A NON-TANGENT CURVE, CONCENTRIC WITH AND LYING 37.00 FEET SOUTHEASTERLY OF LAST SAID CURVE AND HAVING A RADIUS OF 600.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 27°55'34" WEST, ALSO BEING THE CENTERLINE OF WINCHESTER HILL DRIVE (37.00 FOOT HALF-WIDTH) AS SHOWN ON SAID TRACT NO. 30266-2;

THENCE THE FOLLOWING FOUR (4) COURSES ALONG SAID CENTERLINE OF WINCHESTER HILL DRIVE:

1. SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 6°44'31", AN ARC LENGTH OF 70.60 FEET;
2. TANGENT FROM LAST SAID CURVE, SOUTH 55°19'55" WEST, A DISTANCE OF 305.65 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 600.00 FEET;
3. SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 34°42'11", AN ARC LENGTH OF 363.41 FEET;
4. TANGENT FROM LAST SAID CURVE, NORTH 89°57'54" WEST, A DISTANCE OF 152.86 FEET TO WESTERLY LINE OF SAID LOT "C";

THENCE NORTH 0°02'06" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 37.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 12;

THENCE NORTH 89°57'54" WEST, ALONG SAID SOUTHERLY LINE OF SAID LOT 12 AND THE SOUTHERLY LINE OF SAID LOT 11, A DISTANCE OF 50.30 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 1113.00 FEET;

THENCE THE FOLLOWING TEN (10) COURSES ALONG THE SOUTHERLY, SOUTHWESTERLY, AND WESTERLY LINES OF SAID LOT 11;

1. WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 9°16'04", AN ARC LENGTH OF 180.03 FEET;

2. TANGENT FROM LAST SAID CURVE, NORTH 80°41'50" WEST, A DISTANCE OF 351.16 FEET;
3. NORTH 47°20'53" WEST, A DISTANCE OF 17.96 FEET;
4. NORTH 8°48'40" EAST, A DISTANCE OF 334.91 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 522.00 FEET;
5. NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 7°40'59", AN ARC LENGTH OF 70.00 FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 73°30'21" WEST;
6. NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 13°38'39", AN ARC LENGTH OF 23.81 FEET;
7. TANGENT FROM LAST SAID CURVE, NORTH 30°08'18" EAST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 66.00 FEET;
8. NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°47'11", AN ARC LENGTH OF 49.29 FEET;
9. NON-TANGENT FROM LAST SAID CURVE, NORTH 59°42'44" EAST, A DISTANCE OF 41.73 FEET
10. NORTH 20°52'11" EAST, A DISTANCE OF 89.28 TO THE NORTHWEST CORNER OF SAID LOT 11;

THENCE THE FOLLOWING THREE (3) COURSES ALONG THE NORTHERLY LINES OF SAID LOT 11 AND SAID LOT 12;

1. SOUTH 69°01'47" EAST, A DISTANCE OF 264.93 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 2260.00 FEET;
2. SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°54'00", AN ARC LENGTH OF 824.39 FEET;
3. SOUTH 89°55'47" EAST, A DISTANCE OF 153.10 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS PARCEL B OF NOTICE OF LOT LINE ADJUSTMENT NO. 220002, RECORDED NOVEMBER 10, 2022, AS INSTRUMENT NO. 2022-0467442 OF OFFICIAL RECORDS OF SAID COUNTY.

APN: 461-160-053



PETER ALDANA
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK-RECORDER

Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000

Website: www.rivcoacr.org

DOCUMENTARY TRANSFER TAX AFFIDAVIT

WARNING

ANY PERSON WHO MAKES ANY MATERIAL MISREPRESENTATION OF FACT FOR THE PURPOSE OF AVOIDING ALL OR ANY PART OF THE DOCUMENTARY TRANSFER TAX IS GUILTY OF A MISDEMEANOR UNDER SECTION 5 OF ORDINANCE 516 OF THE COUNTY OF RIVERSIDE AND IS SUBJECT TO PROSECUTION FOR SUCH OFFENSE.

ASSESSOR'S PARCEL NO. 461 --160 --053
Property Address: Vacant Land

I declare that the documentary transfer tax for this transaction is: \$0.00

If this transaction is exempt from Documentary Transfer Tax, the reason must be identified below.

I CLAIM THAT THIS TRANSACTION IS EXEMPT FROM DOCUMENTARY TRANSFER TAX BECAUSE: (The Sections listed below are taken from the Revenue and Taxation Code with the exception of items 9 and 10 which are taken from Riverside County Ordinance 516). Please check one or explain in "Other".

- 1. [X] Section 11911. The consideration or value of the property, exclusive of any liens and encumbrances is \$100.00 or less and there is no additional consideration received by the grantor.
2. Section 11911. The conveyance transfers to a revocable living trust by the grantor or from a revocable living trust to a beneficiary.
3. Section 11921. The conveyance was given to secure a debt.
4. Section 11922. The conveyance is to a governmental entity or political subdivision.
5. Section 11925. The transfer is between individuals and a legal entity or partnership, or between legal entities and does not change the proportional interests held.
6. Section 11926. The conveyance is to a grantee who is the foreclosing beneficiary and the consideration paid by the foreclosing beneficiary does not exceed the unpaid debt.
7. Section 11927. The conveyance relates to a dissolution of marriage or legal separation. (A spouse must sign a written recital in order to claim this exemption. This form may be used for that purpose.)
8. Section 11930. The conveyance is an inter vivos gift\* or a transfer by death. \*Please be aware that information stated on this document may be given to and used by governmental agencies, including the Internal Revenue Service. Also, certain gifts in excess of the annual Federal gift tax exemption may trigger a Federal Gift Tax. In such cases, the Transferor (donor/grantor) may be required to file Form 709 (Federal Gift Tax Return) with the Internal Revenue Service.
9. Section 8. The easement is not perpetual, permanent, or for life.
10. Section 9. The document is a lease for a term of less than (35) years (including written options.)
11. Other (Include explanation and legal authority)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed this 14 day of November, 2025 at Wildomar CA

Signature of Affiant Mel Mercado
Printed Name of Affiant

Name of Firm (if applicable) KB Home Cal Management Services, LLC 36710 Inland Valley Dr #300 Wildomar, CA 92595

Address of Affiant (including City, State, and Zip Code)

Telephone Number of Affiant (including area code) 951-691-5300

This form is subject to the California Public Records Act (Government Code 7920.000 et. seq.)

For Recorder's Use:

Affix PCOR Label Here

Recorded at the Request of:  
CHICAGO TITLE COMPANY

When Recorded Mail to:

CHICAGO TITLE COMPANY  
4210 RIVERWALK PARKWAY, SUITE 200  
RIVERSIDE, CA 92505

---

TRACT NO. 38255

SUBDIVISION GUARANTEE



# Chicago Title Company

Builders Services Division  
4210 Riverwalk Parkway, Suite 200, Riverside, CA 92505 (951) 710-5913

## SUBDIVISION GUARANTEE

Order No.: 00212185

Subdivision Map of: TRACT NO. 38255

Dated: October 27, 2025 at 7:30 am

Consisting of 7 Sheet(s)

Issued for the benefit and protection of the County of Riverside and any City within which said subdivision is located.

After an examination of the Public Records which, under the recording laws, impart constructive notice of matters affecting the title to the land hereinafter described,

### CHICAGO TITLE INSURANCE COMPANY

a Missouri corporation

hereby guarantees, for the benefit of said county and city, in a sum not to exceed \$10,000.00, that as shown by said records the only parties having any record title interest in said land, and whose signatures are or may be required, under the requirements of the Subdivision Map Act of said land and offering for dedication any streets roads, avenues and other easements offered for dedication by said Subdivision Map are as set forth in Schedule A.

Issuing Office:  
4210 Riverwalk Parkway, Suite 200  
Riverside, CA 92505  
(915) 710-5913

**Chicago Title Insurance Company**

By:

Michael J. Nolan, President

Attest:

Marjorie Nemzura, Secretary

**SCHEDULE A**

The map hereinbefore referred to is a subdivision of:

SEE ATTACHED EXHIBIT A

The parties hereinbefore referred to are:

**OWNERS:**

KB HOME CAL MANAGEMENT SERVICES LLC, A DELAWARE LIMITED LIABILITY  
COMPANY

END OF SCHEDULE A

**EXHIBIT A**

IN THE UNINCORPORATED TERRITORY OF RIVERSIDE, STATE OF CALIFORNIA

**TRACT NO. 38255**

BEING A SUBDIVISION OF PARCEL "B" OF LLA NO. 220002 RECORDED NOVEMBER 10, 2022 AS DOCUMENT NO. 2022-0467442 AND PERFECTED BY DEED RECORDED JANUARY 4, 2023 AS DOCUMENT NO. 2023-0081868, BOTH RECORDS OF RIVERSIDE COUNTY; IN SECTION 31 OF TOWNSHIP 5 SOUTH, RANGE 2 WEST S.B.M.

END OF EXHIBIT A

## GUARANTEE CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS

The following terms when used in the Guarantee mean:

- (a) "land": the land described, specifically or by reference, in this Guarantee and improvements affixed thereto which by law constitute real property;
- (b) "public records": those records which impart constructive notice of matters relating to said land;
- (c) "date": the effective date;
- (d) the "Assured": the party or parties named as the Assured in this Guarantee, or in a supplemental writing executed by the Company;
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

### 2. EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

The Company assumes no liability for loss or damage by reason of the following:

- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- (b) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
- (c) Title to any property beyond the lines of the land expressly described in the description set forth in this Guarantee, or title to streets, roads, avenues, lanes, ways, or waterways on which said land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
- (d) Defects, liens, encumbrances, adverse claims against the title as guaranteed or other matters (1) created, suffered, assumed or agreed to by on or more of the Assured; or (2) resulting in no loss to the Assured.

## GUARANTEE CONDITIONS AND STIPULATIONS

(continued)

### 3. PROSECUTION OF ACTIONS

- (a) The Company shall have the right at its own cost, to institute and prosecute any action or proceeding or do any other act which in its opinion may be necessary or desirable to establish or confirm the matters herein guaranteed; and the Company may take any appropriate action under the terms of this Guarantee whether or not it shall be liable thereunder and shall not thereby concede liability or waive any provision hereof.
- (b) In all cases where the Company does so institute and prosecute any action or proceeding, the Assured shall permit the Company to use, at its option, the name of the Assured for such purpose. Whenever requested by the Company, the Assured shall give the Company all reasonable aid in prosecuting such action or proceeding, and the Company shall reimburse the Assured for any expense so incurred.

### 4. NOTICE OF LOSS – LIMITATION OF ACTION

A statement in writing of any loss or damage for which it is claimed the Company is liable under this Guarantee shall be furnished to the Company within sixty days after such loss or damage shall have been determined, and no right of action shall accrue to the Assured under this Guarantee until thirty days after such statement shall have been furnished, and no recovery shall be had by the Assured under this Guarantee unless action shall be commenced thereon within two years after expiration of said thirty day period. Failure to furnish such statement of loss or damage or to commence such action within the time hereinbefore specified, shall be a conclusive bar against maintenance by the Assured of any action under this Guarantee.

### 5. OPTION TO PAY, SETTLE, OR COMPROMISE CLAIMS

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage, the Company shall have the option to purchase the indebtedness secured by said mortgage. Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage securing the same to the Company upon.

## GUARANTEE CONDITIONS AND STIPULATIONS

(continued)

### 6. LIMITATION OF LIABILITY – PAYMENT OF LOSS

- (a) The liability of the Company under this Guarantee shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurances herein set forth, but in no event shall such liability exceed the amount of the liability stated on the face page hereof.
- (b) The Company will pay all costs imposed upon the Assured in litigation carried on by the Company for the Assured, and all costs and attorney's fees in litigation carried on by the Assured with the written authorization of the Company.
- (c) No claim for damages shall arise or be maintainable under this Guarantee (1) if the Company after having received notice of an alleged defect, lien or encumbrance not shown as an Exception or excluded herein removes such defect, lien or encumbrance within a reasonable time after receipt of such notice, or (2) for liability voluntarily assumed by the Assured in settling any claim or suit without written consent of the Company
- (d) All payments under this Guarantee, except for attorneys fees as provided for in paragraph 6(b) hereof, shall reduce the amount of the liability herein pro tanto, and no payment shall be made without producing this Guarantee for endorsement of such payment unless the Guarantee be lost or destroyed, in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company.
- (e) When liability has been definitely fixed in accordance with the conditions of this Guarantee, the loss or damage shall be payable within thirty days thereafter.

### 7. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured, and it shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to such claim had this Guarantee not been issued. If the payment does not cover the loss of the Assured, the Company shall be subrogated to such rights and remedies in the proportion which said payments bears to the amount of said loss. The Assured if requested by the Company, shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right or subrogation, and shall permit the Company to use the name of the Assured in any transaction or litigation involving such rights or remedies.

### 8. GUARANTEE ENTIRE CONTRACT.

Any action or actions or rights of action the Assured may have or may bring against the Company arising out of the subject matter hereof must be based on the provisions of this Guarantee. No provision or condition of this Guarantee can be waived or changed except by a writing endorsed or attached hereto signed by the President, a Vice President, the Secretary, an Assistant Secretary or other validating officer of the Company.

## **GUARANTEE CONDITIONS AND STIPULATIONS**

(continued)

9. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at the office which issued this Guarantee.

10. The fee specified on the face of this Guarantee is the total fee for title search and examination and for this Guarantee.

Recorded at the Request of:  
Chicago Title Company

When Recorded Mail to:

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

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

**OF**

**CREEKSTONE**

DTT = -0-

TRA: 071-050  
APN: 461-160-053

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

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

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

**OF**

**CREEKSTONE**

**If this document contains any restriction based on 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. 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.**

**NOTICE: A MASTER DISPUTE RESOLUTION DECLARATION FOR CREEKSTONE IS INCORPORATED HEREIN BY REFERENCE AND ALSO BEING RECORDED CONCURRENTLY HERewith IN THE OFFICIAL RECORDS. THE MASTER DISPUTE RESOLUTION DECLARATION REQUIRES THAT ANY DISPUTES BETWEEN DECLARANT AND AN OWNER AND/OR THE ASSOCIATION SHALL BE RESOLVED BY THE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES SET FORTH THEREIN INCLUDING MANDATORY BINDING ARBITRATION. THE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES DO NOT UTILIZE A JURY AND DO NOT PERMIT CLASS ACTION SUITS. A COPY OF THE MASTER DISPUTE RESOLUTION DECLARATION CAN BE OBTAINED FROM THE COUNTY RECORDER OF RIVERSIDE COUNTY.**

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AND ESTABLISHMENT OF EASEMENTS  
OF  
CREEKSTONE**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS OF CREEKSTONE ("Declaration") is made this 16<sup>th</sup> day of October, 2025 by KB HOME Cal Management Services LLC, a Delaware limited liability company ("Declarant") with reference to the facts set forth below.

**RECITALS**

All initially capitalized terms used but not defined in the Recitals shall have the meanings set forth in Article 1.

**A. Property Owned by Declarant.** Declarant is the Owner of a residential community situated in unincorporated County of Riverside, State of California known as "Creekstone." If developed as planned, the Community may consist of approximately one hundred and sixty-four (164) Condominiums. The Community will include Detached Residential Units and Attached Residential Units. The Attached Residential Units are located in Bungalow Condominium Buildings which also include Exclusive Use Garage Areas serving adjacent Bungalow Detached Units. The Detached Residential Units consist of (i) Bungalow Detached Units which have garages located outside of the Residential Unit boundary in Exclusive Use Garage Areas of the Bungalow Condominium Buildings and (ii) Cluster Detached Units which include garages within the Residential Unit boundary. The Community also includes recreational areas, landscaped areas and other amenities.

**B. Right to Annex.** The Community initially consists of the real property described on Exhibit "A". Declarant may add to the Property all or any of the real property described on Exhibit "B" and upon annexation, the Annexable Property will be subject to this Declaration and included within the definition of the Property.

**C. Association.** Declarant has formed the Deerfield and Fairview at Creekstone Community Association, a California nonprofit mutual benefit corporation to manage and govern the Community and to perform certain maintenance obligations and provide certain services for the benefit of the Community. A primary responsibility of the Association will be to maintain the areas designated as Association Property and areas designated as the Association Maintenance Areas in this Declaration and in Supplementary Declarations. In addition, the Association will provide design review and other services for the benefit of the Owners and the Community as provided in the Governing Documents.

**D. Special Benefit Areas.** The Bungalows Special Benefit Area has been formed. Owners of the Detached Bungalow Units and Attached Residential Units will be part of the Bungalows Special Benefit Area and will pay additional Assessments to fund the Association's maintenance and insurance for the Bungalow Condominium Buildings and for the other services provided and/or obligations performed by the Association for such Special Benefit Area. Additional Special Benefit Areas may be formed in the future.

**E. Nature of Community.** Declarant intends to establish a plan of condominium ownership and to develop the Property within the meaning of California Business and Professions Code Section 11004.5(c) and California Civil Code Section 4125 to conform with the provisions of the California Subdivided Lands Law (California Business and Professions Code Section 11000, *et seq.*) and to subject the Property to certain limitations, restrictions, conditions and covenants as hereinafter set forth, in accordance with the provisions of California Civil Code Sections 4000, *et seq.*

**F. Description of Community.** Declarant intends to develop the Community in multiple Phases. Declarant makes no guarantee that the Community will be constructed as presently proposed. Owners of a Condominium in each Phase will receive title to a Residential Unit plus an undivided fractional

interest as tenant in common to the Common Area located within the Phase in which the Residential Unit is located. In addition, certain Owners of a Condominium will receive the exclusive right of use and occupancy of a portion of the Association Property designated as an appurtenant Exclusive Use Easement Area, all as shown on the Condominium Plan covering that Phase. Each Owner of will also receive an easement for ingress, egress and recreational use over the Association Property of the Phase in which the Condominium is situated and within each other Phase, effective upon annexation and conveyance of the first Condominium in each such subsequent Phase to a First Purchaser, subject to the terms of the Governing Documents. Each Condominium shall have appurtenant to it a membership in the Association.

**G. Master Dispute Resolution Declaration.** A separate Master Dispute Resolution Declaration will be or has been recorded against the Property and will set forth, among other matters, Declarant's binding alternative dispute resolution procedures for the resolution of all Claims by an Owner or the Association involving Declarant, including without limitation, Construction Defect Claims. Each Owner and the Association are bound by the dispute resolution procedures set forth in the Master Dispute Resolution Declaration.

## DECLARATION

NOW, THEREFORE, Declarant declares that the Property is, and shall be, held, conveyed, encumbered, leased and improved subject to the covenants, conditions, restrictions, easements, liens and charges set forth in this Declaration, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in California Civil Code Section 4000, *et seq.* for the subdivision, improvement, protection, maintenance, and for the sale of Condominiums and all of which are agreed to be for the purpose of enhancing, maintaining and protecting the value and appearance of the Property and which shall run with the land, shall be binding on and inure to the benefit of Declarant and all Owners having or acquiring any right, title or interest in the Property and shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code Section 5975.

*Throughout this Declaration, there are summaries (like this summary), which appear in italics, to aid the reader's comprehension and use of this Declaration. In the event of a conflict between any summary and the text of any of the Governing Documents, the text shall control. In the event of any question as to interpretation of the summaries, the text of the Governing Documents shall control.*

## ARTICLE 1 DEFINITIONS

*The defined terms set forth in this Article are used throughout this Declaration and in many of the Governing Documents. The definitions in this Article will assist in reading and reviewing the balance of this Declaration.*

Unless the context otherwise specifies or requires, the terms defined in this Article shall, for all purposes of this Declaration, have the meanings specified below.

1.1 **"Additional Charges"** has the meaning set forth in Section 5.12.1.

1.2 **"ADU"** shall mean an Accessory Dwelling Unit or Junior Accessory Dwelling Unit as defined in Section 66313(a) and (b) of the California Government Code, respectively.

1.3 **"Annexable Property"** means any or all of the real property described on Exhibit "B" and any real property identified in a Supplementary Declaration as Annexable Property.

1.4 **"Annexation"** means the process by which the Annexable Property may be made subject to this Declaration as set forth in Article 15.

1.5 “**Applicable Laws**” means the Community Entitlements and/or any law, regulation, rule, order and ordinance of any Governmental Agencies which are applicable to the Community, or any portion thereof now in effect or as hereafter promulgated.

1.6 “**Applicable Rate**” means the rate of interest chargeable under this Declaration equal to the rate established by the Association from time to time, but not to exceed the maximum rate allowed by Applicable Laws.

1.7 “**Articles**” means the Articles of Incorporation of the Association, as they may from time to time be amended, which are or shall be filed in the Office of the California Secretary of State.

1.8 “**Assessments**” means the assessments which are levied to cover the Common Expenses under Article 5 or other Assessments permitted to be levied by the Association under this Declaration and the other Governing Documents, which include the Assessments described below.

1.8.1 “**Capital Improvement Assessments**” means the Capital Improvement Assessments that are levied by the Association pursuant to Section 5.6.

1.8.2 “**Compliance Assessments**” means the Compliance Assessments that are levied by the Association pursuant to Section 5.7.

1.8.3 “**Regular Assessments**” means the Regular Assessments that are levied by the Association pursuant to Section 5.4.

1.8.4 “**Special Assessments**” means the Special Assessments that are levied by the Association pursuant to Section 5.5.

1.8.5 “**Special Benefit Area Assessments**” means the Assessments that are levied by the Association upon a Special Benefit Area and the Owners within the Special Benefit Area.

1.8.6 “**Utility Assessments**” means the Assessments levied against the Condominiums for water and sub-metering expenses pursuant to Section 5.8.2 and Section 5.25.

1.9 “**Association**” means the Deerfield and Fairview at Creekstone Community Association, a California nonprofit mutual benefit corporation, and any successor entity.

1.10 “**Association Maintenance Areas**” means those portions of the Detached Residential Units, if any, which the Association is obligated to maintain pursuant to the Governing Documents or to comply with the Community Entitlements. The Association Maintenance Areas, if any, shall be depicted in Supplementary Declarations.

1.11 “**Association Maintenance Guide**” means the guide which may be prepared by Declarant setting forth the standards and requirements for maintenance of the Association Property and Association Maintenance Areas by the Association.

1.12 “**Association Property**” means all real property owned from time to time, in fee title by the Association and/or designated as Association Property by Declarant. Upon conveyance to the Association, the Association Property in the first Phase of the Community will consist of the real property identified as Association Property on Exhibit “A.” The Association Property in subsequent Phases shall be described in Supplementary Declarations.

1.13 “**Association Rules**” means the rules and regulations adopted by the Board from time to time.

1.14 **"Attached Condominium"** means an estate as defined in California Civil Code Section 4125 consisting of an undivided interest as a tenant-in-common in all or any portion of the Common Area, together with a separate fee interest in an Attached Residential Unit as described in this Declaration, the Condominium Plan and/or in the deed conveying the Attached Condominium.

1.15 **"Attached Condominium Improvements"** means all structures or improvements of every type or kind installed or erected within a Bungalow Condominium Building or Exclusive Use Easement Area or an alteration or modification to an Attached Residential Unit, Exclusive Use Easement Area or Association Property or any addition to an Attached Residential Unit or Association Property, including without limitation room partitions, structural alterations to any portion of an Attached Residential Unit or any Association Property surrounding the Attached Residential Unit; any addition or alteration to an Attached Residential Unit that causes penetration beyond the unfinished surface of the walls, ceilings or surface flooring of an Attached Residential Unit or impacts or affects in any manner any Association Property; changes of level, grade or drainage pattern of any Exclusive Use Easement Area; outdoor area covers; skylights; stairs; window tinting; plantings and potted plants; paving, tiling or other covering of any outdoor area; Utility Facilities; poles and signs; and all other structures or improvements of every type and kind installed or erected on the Property. The Design Guidelines may identify additional items that are Improvements which require approval of the Design Review Committee.

1.16 **"Attached Residential Unit"** means the elements of an Attached Condominium which are not owned in common with the other Owners, such Attached Residential Unit and its respective elements and boundaries being shown and particularly described in a Condominium Plan. The dimensions of an Attached Residential Unit are measured from the unfinished floor, walls, ceiling, except as otherwise noted herein. An Attached Residential Unit includes all Improvements situated within its boundaries, and includes, without limitation: (i) interior walls (except interior bearing walls); (ii) the interior undercoated surfaces of bearing walls and perimeter walls, floors and ceilings; (iii) any interior door; exterior doors and windows, (iv) appliances, cabinets, and all electrical, heating, plumbing and other utility fixtures; (v) the openings and outlets of all Utility Facilities that are located partially within the Attached Residential Unit and partially in the Association Property, such as electrical outlets, and that exclusively serve the Attached Residential Unit; (vi) all Utility Facilities serving solely that Attached Residential Unit, whether located in the Attached Residential Unit or the Association Property; (vii) interior stairs providing access between the floors of the Attached Residential Unit (if any); (viii) the garage area of the Attached Residential Unit; and (ix) the fire box of any fireplace located in the Attached Residential Unit. The following are not part of any Attached Residential Unit: bearing walls, columns, floors, roofs, foundations, and Utility Facilities that serve two (2) or more Condominiums wherever located. In interpreting deeds and plans, the then existing physical boundaries of an Attached Residential Unit, whether in its original state or reconstructed in substantial conformance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the applicable Condominium Plan, deed or in any other recorded document, regardless of variances between boundaries shown on the applicable Condominium Plan or any other recorded document and those of the building within which the Attached Residential Unit is located and regardless of settling or lateral movement of the building in which the Attached Residential Unit is located.

1.17 **"Board"** means the board of directors of the Association.

1.18 **"Budget"** means the budget for the Association which sets forth all of the Common Expenses to be allocated among the Owners subject to Assessments.

1.19 **"Bungalow Condominium Building"** means each building in which an Attached Residential Unit and Exclusive Use Garage Areas are located as shown on the Condominium Plan.

1.20 **"Bungalow Condominium Building Maintenance Responsibility Chart"** means Exhibit "C" attached hereto and incorporated herein which designates the components of the Bungalow Condominium Buildings and the Exclusive Use Easement Areas to be maintained by the Association and the Owners of Attached Condominiums and Bungalow Detached Units, respectively. The Bungalow

Condominium Building Maintenance Responsibility Chart may be further modified or supplemented in a Supplementary Declaration.

1.21 "**Bungalow Detached Unit**" means a Detached Unit together with an appurtenant easement to the Exclusive Use Garage Area of such Residential Unit, as shown and described on the applicable Condominium Plan, which Exclusive Use Garage Area is located outside of the boundary of the Bungalow Detached Unit within an adjacent Bungalow Condominium Building.

1.22 "**Bungalows Special Benefit Area**" means the Special Benefit Area formed to allocate costs associated with Association's maintenance and insurance of the Bungalow Condominium Buildings.

1.23 "**Bylaws**" means the bylaws of the Association, as they may be amended from time to time, which are or shall be adopted by the Board.

1.24 "**Cluster Detached Unit**" means a Detached Residential Unit, as shown and described on a Condominium Plan, that will have a garage located within the Detached Residential Unit boundary and that does not have an appurtenant Exclusive Use Garage Area.

1.25 "**Common Area**" means the three-dimensional portion of a Module consisting of airspace, which Common Area is owned in equal undivided interests by the Owners of the Residential Units in such Module. The lateral and vertical boundaries of the Common Area are shown on the applicable Condominium Plan. Each Owner of a Condominium in a Phase will receive an undivided fractional fee interest in the Common Area located within the Module in which such Owner's Residential Unit is located equal to a fraction, the numerator of which is one (1) and the denominator of which is the total number of Residential Units within such Module.

1.26 "**Common Expenses**" means the actual and estimated costs and expenses incurred or to be incurred by the Association including, without limitation, the following: expenses for maintenance, management, operation, repair and replacement of the Association Property, Offsite Maintenance Areas and Association Maintenance Areas; expenses incurred for inspections performed pursuant to California Civil Code Section 5551 (if applicable); expenses incurred in performing the duties and obligations of the Association set forth in this Declaration and the other Governing Documents; expenses incurred in complying with the City Agreements, the Community Entitlements and Applicable Laws; expenses incurred in administering any committees formed by the Association; expenses incurred to cover due but unpaid Assessments; expenses for management and administration of the Association, including, without limitation, compensation paid by the Association to managers, accountants, attorneys, architects and consultants; expenses incurred in maintaining the legal status and qualifications of the Association as an entity in good standing and entitled to do business in the State of California; expenses of any inspections required or deemed appropriate by the Association; expenses, if any, required for the maintenance of any areas required by any Governmental Agencies or the Community Entitlements to be maintained by the Association; expenses for any utilities and other services benefiting the Owners and their Condominiums to the extent such services are paid for by the Association; expenses of insurance and/or fidelity bonds maintained by the Association; reasonable reserves as deemed appropriate by the Board or otherwise required pursuant to the Governing Documents or Applicable Laws; expenses of bonding of the members of the Board and any professional managing agent or any other person handling the funds of the Association; taxes and assessments paid by the Association; expenses incurred in maintaining a Special Benefit Area, which costs shall be included in a Special Benefit Area Budget; expenses incurred by the Association for the discharge of any lien or encumbrance levied against the Association Property and Association Maintenance Areas or portions thereof; any other expenses incurred by the Association in connection with the operation and/or maintenance of the Association Property or Association Maintenance Areas, or in furtherance of the purposes or the discharge of any obligations imposed on the Association by the Governing Documents.

1.27 "**Community**" means all of the Property together with all Improvements situated thereon.

1.28 **“Community Entitlements”** means all governmental approvals, permits and authorizations issued in connection with the approval of the development of the Community including, without limitation, the tentative map, the Final Map, development agreements, conditions of approval and project permits.

1.29 **“Condominium”** means an estate as defined in California Civil Code Section 4125 consisting of an undivided interest as a tenant-in-common in all or any portion of the Common Area, together with a separate fee interest in an Attached Residential Unit or a Detached Residential Unit as described in this Declaration, the Condominium Plan and/or in the deed conveying the Condominium.

1.30 **“Condominium Plan”** means each of the following: (a) each condominium plan recorded against the Property pursuant to California Civil Code Section 4285, *et seq.* that encumbers all or any portion of the Property, and all amendments to each such plan; and (b) any recorded condominium plan or plans, including amendments thereto, affecting any Phase which has been annexed hereto.

1.31 **“County”** means the County of Riverside, California.

1.32 **“County Agreements”** means any agreements entered into or required to be entered into by Declarant or any other Person pursuant to the Community Entitlements, which impose obligations to be satisfied by the Association. County Agreements may be, but shall not be required to be, identified in a Supplementary Declaration.

1.33 **“County Maintenance Areas”** means, collectively, the portions of the Property maintained by Valley-Wide Recreation and Park District and/or the County, as applicable, as set forth on Exhibit “E” which is attached hereto and incorporated herein by reference.

1.34 **“Cross Unit Drainage Facilities”** means those certain subterranean and surface area drainage facilities (if any) installed by Declarant within the Property to provide for drainage between the yard areas of Detached Residential Units and Association Property, which are to be maintained as provided herein or in a Supplementary Declaration. The approximate location of the Cross Unit Drainage Facilities may be designated in a Supplementary Declaration.

1.35 **“Declarant”** means KB HOME CAL MANAGEMENT SERVICES LLC, a Delaware limited liability company, and shall include those successors and assigns of KB HOME CAL MANAGEMENT SERVICES LLC, a Delaware limited liability company who acquire or hold title to any part or all of the Property for purposes of development and are expressly named as a successor Declarant to all or a portion of Declarant’s rights in an Assignment of Declarant’s Rights (**“Assignment of Declarant’s Rights”**) executed by Declarant or a successor Declarant, and recorded in the Official Records assigning the rights and duties of Declarant to such successor Declarant, and such successor Declarant accepts the assignment of such rights and duties. A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all or any portion of the Property, which beneficiary has acquired any such portion of the Property by foreclosure power of sale or deed in lieu of such foreclosure or sale.

1.36 **“Declarant Party”** or **“Declarant Parties”** means Declarant and its current and future affiliates, and the respective current and future directors, officers, employees, members, managers, partners, trustees, trust beneficiaries, agents and representative of Declarant.

1.37 **“Declaration”** means this Declaration of Covenants, Conditions and Restrictions and Establishment of Easements of Creekstone as said Declaration may from time to time be amended or supplemented.

1.38 **“Design Guidelines”** means the design criteria adopted by the Board pursuant to Article 8.

1.39 "**Design Review Committee**" means the committee which may be appointed by the Board pursuant to Article 8.

1.40 "**Detached Condominium**" means an estate as defined in California Civil Code Section 4125 consisting of an undivided interest as a tenant-in-common in all or any portion of the Common Area, together with a separate fee interest in a Detached Residential Unit as described in this Declaration, the Condominium Plan and/or in the deed conveying the Detached Condominium.

1.41 "**Detached Condominium Improvements**" means each and all of the following: (a) all buildings and structures, additions and any improvements of every type and kind, including without limitation, Residences and other buildings, outbuildings, guesthouses, walkways, trails, utility installations, swimming pools, spas, garages, roads, sidewalks, driveways, parking areas, fences, screening walls, block walls, retaining walls, awnings, patio and balcony covers, stairs, decks, balconies, trellises, landscaping, irrigation systems, hedges, slopes, windbreaks, the exterior surfaces of any visible structure, paintings, planted trees and shrubs, antennae, poles, signs, solar or wind powered energy systems or equipment, and water softener, heater or air conditioning and heating fixtures or equipment; (b) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern or change of stream bed; (d) landscaping, planting, clearing or removing of trees, shrubs, grass or plants; (e) all drainage systems; and (f) change or alteration of any previously installed Improvement including any change of exterior appearance color or texture. The Design Guidelines may identify additional items that are Detached Condominium Improvements which require approval of the Design Review Committee.

1.42 "**Detached Residential Unit**" means the elements of a Detached Condominium which are not owned in common with the other Owners, such Detached Residential Unit and its respective elements and boundaries being shown and particularly described in the applicable Condominium Plan. Detached Residential Units include the above-described area and all Improvements within such area, including, without limitation, the Residence, driveway, yard, walls, columns, floors, roofs, foundations, windows, central heating and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the point of connection with the main line, wherever located within the Detached Residential Unit. In interpreting deeds and plans, the then existing physical boundaries of a Detached Residential Unit, whether in its original state or reconstructed in substantial conformance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan. The Detached Residential Units include the Bungalow Detached Units and Cluster Detached Units.

1.43 "**DRE**" means the California Department of Real Estate and any successor agency.

1.44 "**Eligible Holder**" means any Mortgagee who has given written notice to the Association specifying its name and the address of the Condominium subject to the Mortgage and requesting written notice of any or all of the events to which such Eligible Holder is entitled to notice specified in this Declaration. For so long as is required by FNMA's legal requirements for project acceptance, all references to "Eligible Holder" herein shall be deemed to include all Mortgagees and guarantors of First Mortgages.

1.45 "**Emergency**" means any situation, condition or event which threatens substantial imminent damage or injury to Person or property.

1.46 "**Exclusive Use Balcony Areas**" means the Exclusive Use Balcony Areas identified on the Condominium Plans as Exclusive Use Balcony Areas over which exclusive easements are reserved for the benefit of certain Owners for balcony purposes.

1.47 "**Exclusive Use Easements**" or "**Exclusive Use Easement Areas**" means those portions of the Association Property over which exclusive easements are reserved and granted for the benefit of certain Owners in accordance with California Civil Code Section 4145, described in this Declaration and shown on the Condominium Plan.

1.48 **"Exclusive Use Garage Areas"** means the Exclusive Use Garage Areas identified on the Condominium Plans as Exclusive Use Garage Areas over which exclusive easements are reserved for the benefit of the Owners of Bungalow Detached Units for garage purposes.

1.49 **"Federal Agencies"** means collectively one or more of the following agencies and the following letter designation for such agencies shall mean and refer to, respectively, the agency specified within the parentheses following such letter designation and any successors to such agencies: Federal Housing Administration ("FHA"), Federal Home Loan Mortgage Corporation ("FHLMC"), Federal National Mortgage Association ("FNMA"), and Government National Mortgage Association ("GNMA"), and United States Department of Veterans' Affairs ("VA").

1.50 **"Final Map(s)"** means the final subdivision or parcel map(s) covering all or any portion of the Property and any corrections, modifications and/or lot line adjustments to such maps.

1.51 **"Fire Life Safety Systems"** means all fire life safety equipment, components, fixtures and facilities (excluding fire extinguishers located within a Residential Unit) located within or serving a Residential Unit, including, without limitation, sprinkler heads, control valves, pipes, drains alarms those designated from time to time by the applicable Fire Department or Department of Building and Safety.

1.52 **"First Mortgage"** means a Mortgage that is first in priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Condominium in the Community.

1.53 **"First Mortgagee"** means the Mortgagee of a First Mortgage.

1.54 **"First Purchaser"** means the Owner of a Condominium who acquired the Condominium under authority of a Public Report from Declarant.

1.55 **"Fiscal Year"** means the fiscal accounting and reporting period of the Association selected by the Board.

1.56 **"Governing Documents"** means collectively this Declaration, the Articles, the Bylaws, Design Guidelines, Association Rules and any Supplementary Declarations.

1.57 **"Governmental Agencies"** means any federal, state, county, local or municipal governmental entity or quasi-governmental entity or body (or any departmental agency thereof) exercising jurisdiction over a particular subject matter for any portion of the Community.

1.58 **"Hazardous Materials"** means any biologically or chemically active or toxic or hazardous waste or materials as defined or regulated by Applicable Laws. Hazardous Materials shall include without limitation those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, *et seq.*, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901, *et seq.*, any applicable state, local or federal laws and the regulations adopted under these Acts.

1.59 **"Improvements"** refers individually or collectively as the context requires to the Attached Condominium Improvements and/or the Detached Condominium Improvements.

1.60 **"Institutional Mortgagee"** means each of the following: (a) a First Mortgagee that is a bank, savings and loan association, insurance or mortgage company or other entity or institution chartered under federal and/or state law; (b) an insurer or governmental guarantor of a First Mortgage; (c) a First Mortgagee that is a Federal or State Agency; or (d) any other institution specified by the Board in a recorded instrument that is the Mortgagee of a Mortgage or the beneficiary of a deed of trust encumbering a Condominium.

1.61 "**Invitee**" means any Person whose presence within the Community is approved by or is at the request of a particular Owner, including, without limitation, Occupants, agents, contractors and the family, guests, employees or licensees of Owners or Lessees.

1.62 "**Lease**" means each lease whereby a Person acquires rights to use or occupy a Residence for a specified term.

1.63 "**Lessee**" means any tenant or lessee occupying a portion of the Property with a Lease.

1.64 "**Limited Warranty**" means the Limited Warranty provided by Declarant to an Owner and/or the Association.

1.65 "**Maintenance Obligations**" means the Association's obligations and each Owner's obligations to perform: (a) all reasonable maintenance consistent with the terms of the Association Maintenance Guide and Owner Maintenance Guide, respectively; (b) any maintenance obligations and schedules in any warranty offered by Declarant or any manufacturer, and any maintenance obligations and schedules otherwise provided to the Association or the Owners by Declarant or any manufacturer, as applicable; (c) any commonly accepted maintenance practices intended to prolong the life of the materials and construction of the Association Property and Condominiums, as applicable; and (d) any maintenance obligations imposed by the Governing Documents or any Governmental Agencies.

1.66 "**Master Dispute Resolution Declaration**" means any Master Dispute Resolution Declaration executed by Declarant which is recorded in the Official Records against any portion of the Property. References to the Master Dispute Resolution Declaration include any subsequently recorded amendments or supplements thereto. There may be more than one (1) Master Dispute Resolution Declaration at any given time; each may apply to different Residential Units or portions of the Community. The Master Dispute Resolution Declaration recorded in the Official Records constitutes a part of this Declaration and is incorporated herein by this reference as though set forth in full herein. A copy of the Master Dispute Resolution Declaration can be obtained from the County Recorder of Riverside County.

1.67 "**Member**" means every Person who holds a membership in the Association.

1.68 "**Module**" means each module designated on the Condominium Plan(s). Each Module is a three-dimensional portion of the Property and has been created pursuant to California Government Code Section 66427. The lower and upper boundaries of each Module are set forth in the Condominium Plan. The lateral boundaries of each Module are vertical planes which are also described and depicted in the Condominium Plans. The Module includes all land and Improvements (whether now or hereafter located within its boundaries).

1.69 "**Mortgage**" means a recorded mortgage or deed of trust encumbering a Condominium in the Community.

1.70 "**Mortgagee**" means a mortgagee under a Mortgage as well as a beneficiary under a deed of trust.

1.71 "**Notice and Hearing**" means the procedure that gives an Owner notice of an alleged violation of the Governing Documents and the opportunity for a hearing before the Board.

1.72 "**Occupant**" means a Person that is entitled to occupy from time to time all or a portion of a Residence, whether pursuant to a Lease, sublease, license or other similar agreement.

1.73 "**Official Records**" means the official public records of the County Recorder of Riverside County.

1.74 "**Offsite Maintenance Areas**" means any real property or Improvements located outside the boundaries of the Property which the Association is obligated to maintain. Offsite Maintenance Areas, if any, shall be designated in a Supplementary Declaration.

1.75 "**Owner**" means the record owner, whether one or more Persons, including Declarant of any Condominium, excluding those having such interest merely as security for the performance of an obligation, unless and until such Person acquires fee title thereto.

1.76 "**Owner Maintenance Guide**" means the guide prepared by Declarant setting forth the standards and requirements for the maintenance by an Owner of the Condominium and other Improvements. The Owner Maintenance Guide may also be referred to as the "**Homeowner Guide**" or "**Homeowner Maintenance Guide**" in other related documents.

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

1.78 "**Phase**" means that portion of the Property which is the subject of a separate Public Report.

1.79 "**Private Streets**" means those streets, roads, drives and adjacent sidewalks within the Association Property and related lighting, private drainage, pollution control devices, sewage and water systems and other utility installations within such streets, roads, drives and sidewalks that are not maintained by a public agency or franchised utility.

1.80 "**Property**" means all of the real property described on Exhibit "A" and any other real property which may be annexed hereto, pursuant to Article 15. In the event of the de-annexation of any Property previously subject to this Declaration, the term "Property" shall not include any such de-annexed land.

1.81 "**Public Report**" means the final subdivision public report issued by the DRE for a Phase in the Community.

1.82 "**Residence**" means each residential dwelling and any other improvements situated within a Detached Residential Unit, and the term Residence shall also refer to the individual Attached Residential Units.

1.83 "**Residential Unit**" means individually or collectively, as the context requires, an Attached Residential Unit or Detached Residential Unit.

1.84 "**Solar Easement Agreement and Grant of Easement**" means that certain Easement Agreement and Grant of Easement which may be recorded against the Bungalow Condominium Buildings.

1.85 "**Solar Rights Act**" means California Civil Code Sections 714, et seq., and any successor statutes.

1.86 "**Solar Shade Control Act**" means California Public Resources Code Sections 25980, et seq., and any successor statutes.

1.87 "**Solar Wiring Systems**" has the meaning set forth in Section 2.9.5.

1.88 "**Special Benefit Area**" means a group of Condominiums which directly receive a special benefit from the Association (either in the form of maintenance or services provided by the Association) for which additional Assessments will be imposed on the Condominiums pursuant to the provisions of this Declaration.

1.89 **“Special Benefit Area Budget”** means the budget for the Association which itemizes the cost components to be assessed against the Condominiums within a Special Benefit Area. A Special Benefit Area Budget may include without limitation the estimated or actual costs and expenses incurred by the Association in connection with the following: (a) preparing the budget for administering the Special Benefit Area; (b) providing the Special Benefit Area Services; (c) obtaining and maintaining insurance coverage related to the Special Benefit Area; (d) providing utility services as reasonably required for the Special Benefit Area Services; and (e) funding reasonable reserves for the repair and replacement of Improvements within the Special Benefit Area.

1.90 **“Special Benefit Area Services”** means those services or maintenance obligations provided by the Association for a Special Benefit Area.

1.91 **“Storm Drain and Water Quality Improvements”** means any private storm drain and water quality protection improvements and systems including, without limitation, detention and storm water basins and other pollution control devices located within the Property which are required to be maintained by the Association.

1.92 **“Storm Water Agreement”** means the storm water agreement for the Community and any amendments or supplements thereto.

1.93 **“Supplementary Declaration(s)”** means those certain declarations of covenants, conditions and restrictions, or similar instruments, which do any or all of the following: (a) annex any Annexable Property and impose additional covenants and restrictions on such Annexable Property or de-annex any portion of the Property in accordance with the provisions of this Declaration; (b) make such other complementary additions and/or modifications necessary to reflect the different character of specific real property; (c) designate a portion of the Property as a Phase; (d) identify Association Property or Association Maintenance Areas or Offsite Maintenance Areas and/or make modifications or supplements to any areas designated for maintenance by the Association or any Owner; (e) identify or modify County Maintenance Areas; (f) conform this Declaration or any previously recorded Supplementary Declarations to Applicable Laws or any conditions of approval imposed by any Federal Agencies, Governmental Agencies or the Community Entitlements; (g) identify Special Benefit Areas and/or Special Benefit Areas Services; (g) make modifications or adjustments to the description of the Annexable Property to reflect Declarant's development plan or any lot line adjustments, parcel maps and final subdivision maps and/or conditions or requirements imposed by Governmental Agencies, including, without limitation, identifying additional real property to be included within the Annexable Property; and/or (h) make corrections to the provisions of this Declaration or previously recorded Supplementary Declaration(s).

1.94 **“Utility Facilities”** means all utility facilities serving the Community including, without limitation, intake and exhaust systems, backflow preventers, private storm and sanitary sewer systems, drainage systems and pollution control devices, common ducting systems for ventilation and utility services, domestic water systems, natural gas systems, heating and air conditioning systems, electrical systems, fire protection water and sprinkler systems, telephone systems, cable television systems, telecommunications systems, satellite communications systems, private water systems, sump pumps, pool equipment, central utility services and all other utility systems and facilities reasonably necessary to service any Improvement situated in, on, over and under the Community.

1.95 **“Voting Power”** means the voting power of the Association set forth in Section 4.2.

## ARTICLE 2 OWNERSHIP AND EASEMENTS

*This Article describes the easements necessary for the Association to exercise its rights and obligations under the Governing Documents, the easements necessary for Declarant to implement the development plan and marketing for the Community and the easements necessary for the Association and Owners to exercise their rights and enjoy the overall features and amenities of the Community intended for*

*their use. Each Owner's rights of enjoyment to the Association Property are limited by some of the rights described in this Article.*

2.1 **Ownership of Condominium.** Ownership of each Condominium within the Community shall include: (a) fee title to a Residential Unit; (b) an undivided interest in the Common Area located within the Phase in which the Residential Unit is situated, as shown on the applicable Condominium Plan and as described in the deed to the Condominium; (c) a membership in the Association; and (d) subject to the terms of the Governing Documents, any exclusive or non-exclusive easement or easements appurtenant to such Condominium over the Association Property as described in this Declaration, the Condominium Plan, and the deed to the Condominium, subject to any limitation set forth in the Governing Documents. To be effective, the easements reserved and granted herein may be, but are not required to be reserved and granted in the grant deed.

2.2 **Title to Association Property.** Any portions of the Property within a Phase made subject to this Declaration that are intended or required to be Association Property shall be conveyed to the Association prior to the conveyance of the first Condominium in that Phase to a First Purchaser.

2.3 **Commencement of Easements.** Each of the easements reserved or granted under this Declaration shall be deemed to be established upon the recordation of this Declaration and the conveyance by Declarant of a Condominium to a First Purchaser and shall thereafter be deemed to be covenants running with the land for the use and benefit of the Owners, the Condominiums, the Association, and the Association Property superior to all other encumbrances applied against or in favor of any portion of the Community.

2.4 **Easements and Rights of Use in Favor of Owners.**

2.4.1 **Non-Exclusive Easements for Use of Association Property.** Declarant hereby reserves and grants to each Owner for the benefit of such Owner and such Owner's Invitees, non-exclusive easements for: (a) ingress and egress on, over, through and across the Association Property including without limitation the Private Streets; and (b) use and enjoyment of the Association Property and other areas intended for the use and benefit of the Owners and an Owner's Invitees except any areas where access is restricted by the Association.

2.4.2 **Easements for HVAC Equipment.** Declarant hereby reserves and grants to each Owner, an easement for placement of such Owner's HVAC condenser within the Association Property in the location originally installed by Declarant.

2.4.3 **Exclusive Use Easements.** Declarant hereby reserves and grants to each Owner an exclusive easement to use each portion of the Association Property (if any) that are described in a Condominium Plan or the deed to the Owner's Residential Unit as being an Exclusive Use Easement Area appurtenant to such Residential Unit for the purposes described in this Declaration or the deed.

2.5 **Easements and Rights in Favor of Declarant and the Association.**

2.5.1 **Easements In Favor of Association to Perform Obligations.** Declarant hereby reserves to itself and grants to the Association, non-exclusive easements over, upon, through and across the Property, including, without limitation, any Association Maintenance Areas, for performing its duties and obligations and exercising its powers described in the Governing Documents. In addition to the foregoing, the Association has the right, upon prior notice to the applicable Owner, to enter into the boundaries of the yard areas of the Detached Residential Units for purposes of maintaining the portion of the Bungalow Condominium Building bordering such Detached Residential Unit yard area (in the approximate location designated in a Supplementary Declaration.) The Owners of the Detached Residential Units shall cooperate to provide access to the Association and shall not install Improvements within such area that would impede the Association's ability to maintain the side of the Bungalow Condominium Building. In

addition to the foregoing, in no event shall the Owner of the Detached Residential Unit attach anything to the wall of the Bungalow Condominium Building bordering such Owner's yard area.

**2.5.2 Enforcement Easements in Favor of Declarant and the Association.**

Declarant hereby reserves to itself and grants to the Association, non-exclusive easements and right of access over, upon, across and through all portions of the Property, for the purpose of taking such action as may be reasonably required to exercise the remedies of Declarant or the Association (as applicable) in regard to any violation of this Declaration or any of the other Governing Documents. In the case of any such entry over, upon, across and through any portion of the Property that is not owned by the Association: (a) Declarant or the Association shall endeavor to provide reasonable prior notice to the Owner, except notice shall not be required in the case of an Emergency or for entry for the performance by the Association of its regular maintenance obligations under this Declaration and the other Governing Documents; and (b) Declarant or the Association shall use commercially reasonable efforts to minimize any inconvenience to the Owner and/or Occupants.

**2.6 County Maintenance Areas.** The County Maintenance Areas within and/or adjacent to the Covered Property include those areas designated for maintenance by Valley-Wide Recreation and Park District on Exhibit "E" attached hereto. An easement has been or will be recorded granting the Valley-Wide Recreation and Park District any easements necessary to carry out such maintenance. In no event shall any Owner modify or remove any Improvements installed or maintained by the Valley-Wide Recreation and Park District within the County Maintenance Areas.

**2.7 Encroachment Easements.** Declarant hereby reserves to itself and grants to each Owner and to the Association non-exclusive easements over, under, across and through the Property, for encroachment, support, maintenance, repair, occupancy and use of such portions of the Condominiums and/or Association Property as are encroached upon, used or occupied as a result of any original construction design, accretion, erosion, addition, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building, structure, or other Improvements or any portion thereof, or any other cause. In the event any portion of the Property is partially or totally destroyed, the encroachment easement shall exist for any replacement structure that is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement shall exist for as long as the encroachments exists; provided, however, that no valid easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement of encroachment may, but need not be, cured by repair and restoration of the structure.

**2.8 Structural Support.** Declarant hereby reserves to itself and grants to each Owner and to the Association, non-exclusive easements and rights in and to all supporting components within and upon the Bungalow Condominium Buildings, Detached Residential Units and other portions of the Community, for structural support of the Improvements situated therein. Such non-exclusive easements shall not be deemed to create any rights for Owners of an Attached Condominium to attach Improvements to the exterior of the Bungalow Condominium Buildings.

**2.9 Storm Water Drainage and Utility Easements.**

**2.9.1 Easements for Drainage and Runoff.** Declarant hereby reserves to itself and grants to each Owner and to the Association, non-exclusive easements for drainage through the established system of drainage pipes and facilities over, through and the Community. Such easements shall be subject to the restrictions set forth in Section 6.1.10.

**2.9.2 Cross Unit Drainage Facilities.** Declarant hereby reserves to itself and grants to each Owner and to the Association, non-exclusive easements on, over, through and across the Condominiums, Exclusive Use Easement Areas and/or Association Property that are part of the same Cross Unit Drainage Facilities system for the purpose of drainage through the Cross Unit Drainage Facilities.

2.9.3 **Storm Water Easements.** Declarant hereby reserves to itself and grants to each Owner and the Association, non-exclusive easements over, under, through and across the Property to the extent necessary for the flow of storm water through the Storm Drain and Water Quality Improvements.

2.9.4 **Utilities.** Declarant hereby reserves to itself and grants to the Association, non-exclusive easements over, under, across and through the Property for the maintenance, repair and replacement of the Utility Facilities serving the Association Property or Association Maintenance Areas pursuant to this Declaration. There are hereby reserved and granted to each Owner non-exclusive easements over, under, across and through the Property for the existence, maintenance and use of Utility Facilities serving such Owner's Condominium in the location originally installed by Declarant.

2.9.5 **Solar Energy System Conduit and Wiring Systems.** In connection with the original construction of the Condominium Buildings, conduit, wiring and other systems ("Solar Wiring Systems") were installed within the Condominium Buildings in order to connect the solar panels and other components of the Solar Energy Systems located on the Association Property roofs of the Condominium Buildings to the electrical systems for the Units. Declarant hereby reserves and grants to Owners, for their benefit and the benefit of their Occupants and their respective Units, reciprocal non-exclusive easements over, under, across and through the Condominium Buildings for the existence, use and maintenance of Solar Wiring Systems serving such Owner's Unit in the location originally installed by Declarant.

2.10 **Development and Other Easements and Rights in Favor of Declarant.**

2.10.1 **Maintenance and Repair.** Declarant hereby reserves to itself non-exclusive easements over, under, through and across the Property for access by Declarant, its agents, employees and contractors to perform necessary maintenance or repair of any Improvements or to implement any warranty provided by Declarant. Such right includes the right of Declarant to enter upon the Property to perform any work required to be performed pursuant to any of the Community Entitlements, or to cure any failure of the Association to perform any work required as a condition to the release of any bonds or other security posted with a Governmental Agency or any other obligee and to perform its obligations under any warranties provided by Declarant to an Owner and/or the exercise any repair rights granted to Declarant under this Declaration, any warranties or Applicable Laws; provided, however, that nothing contained herein shall be deemed to impose any obligations on Declarant to cure any failure of the Association to perform its Maintenance Obligations.

2.10.2 **Inspection and Repair of Association Property and Association Maintenance Areas.** Declarant hereby reserves to itself non-exclusive easements over, under, through and across the Property for access by Declarant, its agents, employees and contractors to inspect the Association Property and Association Maintenance Areas on an periodic basis to determine whether any repair to or routine maintenance of any Improvements within the Association Property or Association Maintenance Areas is needed in accordance with Section 7.7 and to perform any necessary repair or maintenance of any Improvements within the Association Property or Association Maintenance Areas; provided that nothing herein shall create an obligation on Declarant to inspect the Association Property or Association Maintenance Areas, to repair or maintain any portion thereof or any Improvements there within, or to cure any failure of the Association to perform its Maintenance Obligations.

2.10.3 **Declarant's Easements to Exercise Rights.** Declarant hereby reserves to itself non-exclusive easements over, under, through and across the Property to perform its duties and exercise its powers granted or reserved in this Declaration.

2.10.4 **Development Easements.** Declarant hereby reserves to itself non-exclusive easements over, under, through and across the Property as are reasonable and necessary to undertake and complete the work of development, construction, marketing, conveyance and/or repair and replacement of the Improvements and as may be necessary to access the Annexable Property until all of such Annexable Property is annexed to the Property and made subject to this Declaration.

2.10.5 **Easements for Signage.** Declarant hereby reserves to itself non-exclusive easements over, under, through and across the Association Property to install, maintain, repair and replace, identification, promotional, and other signage, banners, flags and other advertising and promotional materials required or deemed necessary by Declarant, including, without limitation, any signage in connection with the exercise of activities described in Section 2.10.4 and Article 9.

2.10.6 **Solar Energy Systems.** Declarant reserves to itself the right to grant non-exclusive easements over, under, through and across the Property for installation, operation, maintenance, improvement and removal of solar energy systems, and access necessary for such purposes.

2.10.7 **Additional Improvements and Utility Facilities.** Declarant hereby reserves to itself non-exclusive easements over, under, through and across the Property, for the purpose of installing, operating and maintaining landscaping, sidewalks, walkways, drainage areas, lighting, signage, monumentation, Utility Facilities, and other facilities and Improvements within the Property, as may be deemed appropriate by Declarant and/or required by the Community Entitlements, Governmental Agencies or in connection with the issuance of any permits or approvals for the benefit of Declarant or as may be required in connection with the development of the Property. In addition, Declarant hereby reserves to itself non-exclusive easements over, upon and across all Association Property for purposes of such access as may be reasonably required in connection with such activities.

2.10.8 **Parking Rights for Marketing.** Until Declarant no longer owns any portion of the Property and Annexable Property, Declarant shall have the sole right to exclusively utilize the parking spaces located in the vicinity of the model homes for sales, marketing, construction and customer service purposes. In connection with such rights, Declarant shall have the right to tow any vehicles which park within any space which is designated for model home and sales use by Declarant.

2.11 **Limitations on Easements and License Rights.** The easement rights, and the reservations of the right and authority to grant easements, described in the foregoing provisions of this Article and elsewhere in this Declaration, shall be subject to the limitations set forth below.

2.11.1 **Easements of Record.** The Property and all of the easements granted or reserved herein are subject to all covenants, conditions, restrictions, encumbrances, easements, dedications, and rights of way as set forth in Supplementary Declarations, as well as the Final Map and any other matters of record, including without limitation, the Community Entitlements and any agreements recorded against the Property. Nothing in this Declaration shall be deemed to limit the right of Declarant, or (with the prior consent of Declarant) the Association, to grant or reserve any additional easements over any portion of the Property to such grantees and for such purposes as Declarant, or the Association may deem appropriate, provided that any such easements shall not be inconsistent with the easement rights granted in this Declaration by Declarant to memorialize the easements and other rights reserved to Declarant under this Declaration.

2.11.2 **Governing Documents.** All of the easements and other rights reserved and granted in this Declaration are subject to the limitations, restrictions and easements set forth in the Governing Documents.

2.11.3 **Restricted Access.** Subject to the Governing Documents and the rights specifically reserved by Declarant, the Association shall have the right to: (a) limit and restrict the use of any recreational facilities located within the Association Property and portions thereof, during specific times or on specific dates for events or promotional activities and other purposes, and to prohibit all use and access to portions of the Association Property as otherwise deemed necessary by the Association for health, safety, welfare, privacy or security purposes; (b) limit or permit usage thereof by Persons as the Association deems appropriate; (c) limit the number of Persons using the Association Property; and/or (d) permit members of the public to use portions of the Association Property. The Association and the Declarant shall have the right to temporarily close or restrict access to the Association Property or other Association Maintenance Areas as may be reasonably necessary in connection with the exercise of any

Maintenance Obligations or in the event of an Emergency or to exercise any other rights reserved or granted by Declarant or the Association hereunder.

2.11.4 **Suspend Rights to Use Association Property**. All of the easements are subject to the right of the Association, after Notice and Hearing, to temporarily suspend an Owner's rights as a Member to use the facilities within the Association Property for a period not to exceed sixty (60) days (unless such rights are suspended for failure to pay assessments) pursuant to the terms of the Governing Documents. Notwithstanding anything to the contrary contained herein, in no event shall the Association suspend an Owner's easement or right of ingress and egress to and from such Owner's Condominium, or such Owner's easements for utilities servicing such Owner's Condominium.

2.11.5 **Easements and Dedication**. The Association shall have the right without the consent of the Owners to dedicate, transfer or grant easements over all or any part of the Association Property or any interest therein to any Governmental Agency or other Person, which dedication, transfer or easements shall be subject to the provisions of this Declaration and such other conditions as the Association deems proper.

2.11.6 **Control Parking**. Subject to the provisions of this Declaration and the rights of Declarant hereunder, the Association shall have the right to control parking within the Community and to promulgate rules and regulations to control parking in a manner consistent with this Declaration.

2.11.7 **Roof Access and Access to Other Access Restricted Areas**. An Owner of an Attached Residential Unit must obtain permission from the Association before accessing any roof or other portion of a Bungalow Condominium Building which is not readily accessible to perform maintenance. Entry shall be limited to normal business hours, and the Association shall have the right to accompany the Owner or any employee or contractor retained by the Owner during the entry period. The Owner shall reimburse the Association for any costs incurred by the Association to accompany the Owner, employee or contractor, and for any damage caused as a result of such entry.

2.12 **Rights of Invitees and Occupants**. Notwithstanding any other provisions of this Declaration or the Governing Documents, nothing contained in this Article is intended to grant any third party beneficiary rights or any other rights to an Invitee and Occupant. No Invitee or Occupant shall have any rights under this Article independent of the rights granted to the Association and the Owners under this Declaration.

2.13 **Easements Reserved by Declarant**. Any of the easements hereunder reserved by Declarant may be assigned or transferred by Declarant to any Person, without the consent of any Owners or the Association.

2.14 **Duration of Easement Rights**. Except for the rights of Declarant, the easement rights granted under this Declaration shall be for a term and duration coextensive with the Owner's title or interest in and to a Condominium. Upon conveyance of a Condominium, such rights shall pass to the successor Owner(s) of the Condominium being conveyed. All of the rights reserved to Declarant shall continue so long as Declarant owns any portion of the Property or Annexable Property.

2.15 **Light, Air and View**. No Owner shall have an easement for light, air or view over the Condominium of another Owner or the Association Property, and no diminution of light, air or view by any Improvement now existing or hereafter erected shall entitle an Owner or any Invitee to claim any easement for light, air or view within the Community.

2.16 **No Separate Conveyance**. The interest of each Owner in the use and benefit of the Association Property and all other easements reserved and granted hereunder to each Owner shall be appurtenant to the Condominium owned by the Owner. No Condominium shall be conveyed by the Owner separately from the right to use the portions of the Association Property that are open for access by the Owners and their Invitees in accordance with the Governing Documents. Any conveyance of any

Condominium shall automatically transfer the interest in the Owner's right to use the Association Property as provided in this Declaration and the Governing Documents without the necessity of express reference in the instrument of conveyance.

2.17 **Delegation of Use.** Any Owner entitled to the right of use of the Association Property to the extent provided in this Declaration or the other Governing Documents may delegate such Owner's rights to the Occupants who reside in such Owner's Condominium, subject to reasonable regulation by the Association and the Governing Documents. An Owner who has made such a delegation of rights shall not be entitled to use of the Association Property for so long as such delegation remains in effect, other than such access rights as are directly related to the Owner's rights and duties as landlord.

### ARTICLE 3 THE ASSOCIATION

*The Association has been formed to govern, maintain and manage the Community and to perform the other powers and duties of the Association described in this Article. The Association acts by and through a Board of Directors. This Article establishes both the powers and the duties of the Association.*

3.1 **The Organization.** The Association is a nonprofit mutual benefit corporation formed under the Nonprofit Mutual Benefit Law of the State of California. On the conveyance of the first Condominium to a First Purchaser, the Association shall be charged with the duties and given the powers set forth in the Governing Documents.

3.2 **Association Action; Board of Directors and Officers; Members' Approval.** Except as to matters requiring the approval of Members as set forth in the Governing Documents, the affairs of the Association shall be conducted by the Board and officers as the Board may elect or appoint. Such election or appointment shall be in accordance with the Governing Documents. Except as otherwise provided in Governing Documents, all matters requiring the approval of Members shall be deemed approved if: (a) Members holding a majority of the total Voting Power consent to in writing as provided in the Bylaws; (b) such matters are approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws; or (c) in certain situations set forth in Section 3.4, such matters as are approved in accordance with the procedures set forth in Section 3.4.

3.3 **Powers of the Association.** The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California subject only to such limitations on the exercise of such powers as are set forth in the Governing Documents. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under the Governing Documents including, without limitation, the powers set forth below.

3.3.1 **Performance of Duties; Commencement of Association's Duties and Powers.** The Association shall have the power to undertake all of the express duties required to be performed by the Association. Unless otherwise specified in a Supplementary Declaration, the duties, rights and powers of the Association as described in this Declaration shall commence from and after the date of the conveyance of fee ownership of any portion of the Property from the Declarant to a First Purchaser, or such earlier date that the Declarant may elect, and the Association shall thereupon assume all such duties and such rights and powers.

3.3.2 **Assessments.** The Association shall have the power to establish, fix, and levy Assessments against the Owners and to enforce payment of such Assessments, in accordance with the provisions of the Governing Documents.

3.3.3 **Right of Enforcement.** The Association, in its own name and on its own behalf, or on behalf of any Owner who consents, shall have the power to: (a) take disciplinary action and/or assess monetary fines against an Owner for violation of the Governing Documents by such Owner or their Invitees; (b) commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach

of any provision of the Governing Documents; (c) after Notice and Hearing, suspend the rights to use any portion of the Association Property or membership rights or privileges; and/or (d) to enforce by mandatory injunction, or otherwise, any resolutions of the Board or any provision of the Governing Documents. In addition, the Association can temporarily suspend the membership rights and privileges and/or can assess monetary fines against any Owner or other person entitled to exercise such rights or privileges for any violation of the Governing Documents or Board resolutions, in accordance with the procedures set forth in this Declaration and in the Bylaws; provided, however, that unless such suspension is due to a failure to pay Assessments pursuant to Article 5, such suspension shall not last longer than sixty (60) days. In no event shall the Association suspend an Owner's right and easement of access for ingress and egress over the Association Property to the extent necessary to provide access and utility service to the Condominium.

3.3.4 **Right of Entry**. Except in the case of an Emergency, in which case no prior notice need be given, the Association or any authorized representative thereof shall have the right, upon forty-eight (48) hours' prior notice and during reasonable hours, to enter in or on to the interior of any Attached Residential Unit and any portion of a Detached Residential Unit (except for the interior of the Residence located within the Detached Residential Unit) for the purpose of: (a) construction, maintenance or repair; (b) enforcing the provisions of the Governing Documents or to perform its obligations under the Governing Documents to cure any default by an Owner; or (c) inspecting, maintaining and repairing the Improvements, if any, located within said Attached Residential Unit or Detached Residential Unit which are required to be maintained by the Association as provided in this Declaration. Such Persons shall not be deemed guilty of trespass by reason of such entry.

3.3.5 **Delegation of Rights of Use**. Subject to the Governing Documents, the Association shall have the power to exclusively use or to allow the Owners or Occupants the exclusive use of portions of the Association Property for events and functions, on terms and conditions that the Board deems appropriate, including charging such Owners or their Occupants for such use provided that if Declarant owns any Condominium in the Property, the prior consent of the Declarant shall be obtained.

3.3.6 **Delegation of Powers; Professional Management**. The Association shall have the power to delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent, subject to the requirements of Section 3.5.2.

3.3.7 **Easements and Rights of Way**. The Association shall have the power to exercise any of the easements and other rights granted to the Association under Article 2. The affirmative vote of Majority of Members shall be required before the Board may grant exclusive use of any portion of the Association Property to any Member unless the grant of exclusive use is one of the exceptions to Member approval requirements listed in California Civil Code Section 4600.

3.3.8 **Capital Improvements**. Subject to the provisions of Section 5.6, the Association may approve the construction, installation or acquisition of a particular capital improvement to the Association Property or other Association Maintenance Areas.

3.3.9 **Acquire Property**. The Association shall have the power to acquire and hold real and personal property as may be necessary or convenient for (i) the management or operation of the Association Property and/or other Association Maintenance Areas, (ii) the administration of the affairs of the Association or (iii) the benefit of the Owners. The Association may dispose of the same by sale or otherwise.

3.3.10 **Restrict Access**. The Association shall have the power to restrict access on or to any portion of the Association Property and Association Maintenance Areas for purposes of facilitating construction or making repairs of Improvements by the Association on such terms as the Association may deem reasonably appropriate. Any such restriction shall reasonably minimize any impact on access to and from any neighboring areas.

3.3.11 **Enter Into Agreements**. The Association shall have the power to enter into maintenance, cost sharing and/or easement agreements with owners of property adjacent or in the vicinity

of the Property (including, without limitation, Governmental Agencies) or any owners associations. Unless otherwise specified in the agreement or a Supplementary Declaration, any agreements entered into by Declarant with any Governmental Agency relating to the Property shall be binding on the Association. Notwithstanding any other provisions of this Declaration regarding the term of contracts with Declarant for providing services to the Association, the Association shall have the power to enter into maintenance, use, subsidy or similar agreements with Declarant.

3.3.12 **Special Benefit Areas.** Declarant and the Association, with the consent of Declarant, so long as Declarant owns any portion of the Property or Annexable Property, shall have the power to form and administer Special Benefit Areas in accordance with the terms and provisions of the Governing Documents. In connection with the administration of a Special Benefit Area, the Association shall have the power to establish advisory committees for any Special Benefit Area, comprised of Owners whose Condominium are within the applicable Special Benefit Area. Such advisory committees may propose special rules and regulations with respect to Special Benefit Areas which may be adopted by the Association. The Association shall also adopt special election procedures for the election of members of such advisory committees.

3.3.13 **Contract for Goods and Services.** The Association shall have the power to contract for goods and services for the benefit of the Association Property and the Community that are necessary for the Association to perform its duties and obligations under the Governing Documents and/or as may be required by Governmental Agencies, including engaging legal, management and accounting services. To the extent any such goods and services are provided solely to a Special Benefit Area, the Association may assess such costs solely to the Special Benefit Area.

3.3.14 **Borrow Funds.** The Association shall have the right to borrow money to improve, repair or maintain the Association Property or other Association Maintenance Areas and to hypothecate any or all real or personal property owned by the Association, including pledging as collateral the assessment liens levied thereon provided that: (a) the borrowing of any money or hypothecation of any real or personal property in excess of five percent (5%) of the budgeted gross expenses of the Association shall require the approval by written ballot of at least sixty-seven percent (67%) of each class of Members; and (b) the lender's rights of default for any loan obtained pursuant to this Section are limited to, after taking possession of any Association Property, charging reasonable admission and fees, and, upon satisfaction of the debt, such Association Property shall be returned to the Association.

3.3.15 **Rights Regarding Title Policies.** If any title claims regarding the Association Property are made by any third party, the Association shall have the power to pursue such claims on any title insurance policy held by the Owners or the Association, and each Owner hereby delegates on a non-exclusive basis and assigns to the Association any rights he or she may have under his or her title insurance policies to the extent that the title claim relates to the Association Property.

3.3.16 **Association Rules.** The Board, by majority vote, shall have the power to adopt the Association Rules. The Board shall further have the power to amend the Association Rules as it deems appropriate relating to the use and operation of the Community. Notwithstanding any provision of this Declaration to the contrary and to the extent California Civil Code Section 4340, *et seq.* is applicable to the Association Rules, any rule which is considered to be an operating rule under California Civil Code Section 4340, *et seq.* may not be adopted, changed or amended except by and pursuant to the procedures set forth in California Civil Code Section 4340, *et seq.*

3.3.17 **Parking Assignment and Regulations.** The Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas not assigned to individual Condominiums, including, without limitation, designating "no parking" areas thereon. Any parking areas shall be subject to such further reasonable control and use limitations as the Board may establish. The Board shall determine, in its discretion, whether there is a violation of the parking and vehicular restrictions set forth in this Declaration or established by the Board, and, if such noncompliance is determined by the Board to exist, the Board shall have the power to enforce all parking and vehicle use

regulations applicable to the Community, including the power to remove violating vehicles from the Community pursuant to California Vehicle Code Section 22658.2 or other Applicable Laws.

3.3.18 **Assignment of Maintenance Responsibilities**. The Association shall have the power to relinquish or assign its maintenance responsibilities to any Governmental Agencies, including, without limitation, maintenance or assessment districts, utility companies and/or school districts, provided that such Governmental Agency shall have accepted such maintenance responsibility from the Association.

3.3.19 **Solar Easements**. The Association shall have the power to grant easements over the Association Property to the extent required by a Solar Energy System provider.

3.4 **Duties of the Association**. In addition to the powers described above, and without limiting their generality, the Association, has the power and the obligation to perform each of the duties set forth below.

3.4.1 **Applicable Laws and Community Entitlements**. The Association shall comply with all Applicable Laws and the Community Entitlements and any County Agreements, including without limitation the Storm Water Agreement.

3.4.2 **Obligations Under Governing Documents**. The Association shall perform all duties that may be expressly imposed on the Association in the Governing Documents.

3.4.3 **Acceptance of Association Property and Association Maintenance Areas**. The nature, design, quality and quantity of all Improvements to the Association Property and other Association Maintenance Areas shall be determined by Declarant, in its sole discretion. The Association shall accept any Association Property and other Association Maintenance Areas and Improvements situated thereon and any maintenance or other easements conveyed by Declarant and/or created under this Declaration and shall maintain, repair, replace, operate, and otherwise manage all of the Improvements and facilities required to be maintained by the Association, and all personal property acquired by the Association in accordance with the terms and provisions of the Governing Documents and the Community Entitlements. The Board shall periodically review the nature and scope of the operations of the Association to assure such operations are in satisfactory compliance with the requirements of the Governing Documents. The Association shall comply with the requirements of any agreements entered into between Declarant and a Governmental Agency pertaining to the Association Property or other Association Maintenance Areas. In the event that a dispute arises between Declarant and the Association with respect to the nature, design, quality or quantity of such Improvements, or the acceptance of maintenance responsibilities therefor, the Association shall be obligated to accept title to the Association Property and any easements to maintain other real property or Improvements and undertake maintenance responsibilities therefore, pending resolution of the dispute, in accordance with the provisions for enforcement set forth in Article 16 herein.

3.4.4 **Utilities**. The Association shall acquire, provide and pay for water and other utility services for the Association Property and Association Maintenance Areas to the extent necessary. The Association shall have the duty to permit utility suppliers and other providers of any telecommunications or other services to use portions of the Association Property reasonably necessary to the ongoing development and operation of the Community.

3.4.5 **Management**. The Association shall retain a professional manager or other Persons and contract with independent contractors or managing agents who have professional experience in the management of similar communities to perform any services required for the maintenance, protection, operation and preservation of the Community; provided that any such professional manager shall be covered by its own fidelity insurance policy, which must provide the same coverage required of the Association.

3.4.6 **Taxes and Assessments.** The Association shall have the duty to pay all real and personal property taxes levied against the Association Property or any other taxes or assessments which could become a lien on the Association Property or any portion thereof. Such taxes and assessments may be contested by the Association provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

3.4.7 **Architectural Control.** The Association shall have the duty to promulgate architectural standards and procedures as set forth in the Design Guidelines and may appoint or remove members of the Design Review Committee or hire a consultant in connection there in accordance with the provisions of Article 8.

3.4.8 **Association Rules.** The Association shall adopt and be entitled to modify and enforce the Association Rules as it deems reasonable. The Association Rules shall govern the Community. However, the Association Rules shall not be inconsistent with or materially alter any provisions of the Governing Documents. A copy of the Association Rules, as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. In case of any conflict between any of the Association Rules and any other provisions of this Declaration, the conflicting Association Rule shall be deemed to be superseded by the provisions of the Governing Documents. Notwithstanding any provision of this Declaration to the contrary and to the extent Civil Code Section 4340, *et seq.* is applicable to the Association Rules, any rule which is considered to be an operating rule under California Civil Code Section 4340, *et seq.* may not be adopted, changed or amended except by and pursuant to the procedures set forth in California Civil Code Section 4340, *et seq.*

3.4.9 **Claims and Actions.** Subject to the provisions of this Declaration, and in compliance with California Civil Code Section 5980, the Association shall have the power, but not the duty, to initiate, defend, settle, release or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Association in matters pertaining to: (a) the application or enforcement of this Declaration; (b) any and all claims, causes of action, damages and suits for defects relating in any way to the design or construction of the Association Property, Association Maintenance Areas or any portion thereof, on behalf of all Owners; and (c) Limited Warranty claims that may arise with respect to the Association Property or Association Maintenance Areas; provided, however that no representative of Declarant on the Board shall vote on the initiation of any claim under California Civil Code Section 895 *et seq.*, such that from and after the first election of directors in which Class A Members of the Association participate, Declarant shall have no control over the Association's ability to decide whether to initiate a claim under such statutory provisions and in the event of such a vote, the affirmative vote of the two non-Declarant representatives on the Board shall be binding so long as a quorum of the Board is present at any meeting where such vote is taken. An Owner may only assert Limited Warranty claims pertaining to such Owner's Condominium. The Association and not the individual Members shall have the power to pursue Limited Warranty claims or any claims or other actions using the non-adversarial procedures for construction defects in the Association Property or Association Maintenance Areas pursuant to California Civil Code Section 895 *et seq.* The Association shall comply with such non-adversarial procedures in bringing any such claims or actions. Each Owner hereby agrees to designate such authority to the Association and assigns to the Association all power and authority as is necessary for any settlement or release of any such claims.

3.4.10 **Warranties.** The Association shall comply with the terms of each warranty in favor of the Association, if any, for any equipment or facilities within the Association Property and/or Association Maintenance Areas, which warranties may be impaired or eliminated if the Association fails to maintain in compliance with a warranty or if it fails to keep in effect certain maintenance contracts.

3.4.11 **Maintenance Guides.** The Association shall maintain at the offices of the Association a copy of the Owner Maintenance Guide(s) provided by Declarant to the Owners and shall make available to every Owner upon request a copy of the Owner Maintenance Guide applicable to such Owner's home. The Association shall have the right to charge the requesting Owner a fee for the copying of such Owner Maintenance Guide. The Association shall also comply with provisions of the Association Maintenance Manual provided by Declarant to the Association. The Association may, from time to time, make appropriate revisions to the Association Maintenance Guide based on the Board's review thereof to

update such manual to provide for maintenance according to current industry practices so long as such changes do not reduce the useful life or functionality of the items being maintained.

3.4.12 **Special Benefit Area Administration.** The Association shall administer and perform any obligations associated with any Special Benefit Area.

3.4.13 **Minutes of Board Meetings.** The Association shall supply copies of the minutes or a summary of the minutes of any meeting of the Board to the Declarant within thirty (30) days of the applicable meeting of the Board for a period of one (1) year after the conveyance of the last Condominium within the Property and Annexable Property by Declarant to a First Purchaser.

3.4.14 **Dedications to the County.** Certain portions of the Property may have been dedicated to the County on the Final Map. If the County does not accept such dedications, the Association shall be required to accept the conveyance of such Property in fee title. The Association's acceptance of such transfer shall be through the president of the Association who shall be authorized to execute any document(s) required to facilitate transfer of such areas or any portion thereof.

3.4.15 **County Agreements.** The Association shall comply with and perform all obligations required to be performed pursuant to the County Agreements.

3.4.16 **Reporting Obligation of the Association.** The Association shall cooperate and provide information relating to the status of the Community, potential construction defects, substantial disputes or dissatisfaction among Owners regarding the operations of the Community or the Owner's insurance, disputes concerning Owners and disputes over rights, privileges and obligation including, without limitation, homeowners association fees as may be reasonably requested by the Declarant in connection with obtaining any approvals for government financing (including Fannie Mae, Freddie Mac, FHA and VA financing). The Association acknowledges that such cooperation is a benefit to the Owners so as to ensure the availability of government financing and that failure to so cooperate may result in the inability to have government financing available at the Community. The Association shall promptly provide a certification or other statements as may be reasonably requested by the Declarant, but no later than five (5) business days after any such request is delivered to the Association.

### 3.5 **Limitations on Authority of Board.**

3.5.1 **Actions Requiring Member Approval.** The Association shall not take any of the actions listed below except with: (a) the vote or written consent of a majority of the Members of each of Class A and Class B Members during the time the Class B voting structure set forth in Section 4.2 is in effect; or (b) except with the vote at a meeting of the Association, or by written ballot without a meeting pursuant to Corporations Code Section 7513, of at least a majority of the Members of the Association including at least a majority of Association Members other than Declarant after conversion to a single Class A voting membership.

(a) **Limit on Capital Improvements.** The Association shall not, without obtaining the consent of the Members as set forth above, incur aggregate expenditures for capital improvements to the Association Property or Association Maintenance Areas in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year;

(b) **Limit on Sales of Association Property.** The Association shall not, without obtaining the consent of the Members as set forth above, sell 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;

(c) **Limit on Compensation.** The Association shall not, without obtaining the consent of the Members as set forth above, pay compensation to Members for services performed in the

conduct of the Association's business. However, the Board may cause a member of the Board to be reimbursed for expenses incurred in carrying on the business of the Association; or

(d) **Limit on Third Person Contracts.** The Association shall not, without obtaining the consent of the Members as set forth above, enter into a contract with a third person wherein the third person will furnish goods or services for the Association Property or Association Maintenance Areas for a term longer than one (1) year with the following exceptions:

(i) 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) A prepaid casualty and/or liability insurance policy not to exceed three (3) years duration; provided that the policy permits short-rate cancellation by the insured;

(iv) A contract for a term not to exceed three (3) years that is terminable by the Association without cause, penalty or other obligations upon ninety (90) days' written notice of termination to the other party;

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

(vi) An agreement for the sale or lease of burglar alarm and fire alarm equipment, installation and services not to exceed five (5) years duration, provided that the supplier is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(vii) A contract submitted to the DRE in connection with an application for a Public Report; and

(viii) Any maintenance agreement for the maintenance of any portion of the Association Property or Association Maintenance Areas which is required as a condition to the effectiveness of any warranty in favor of the Association.

3.5.2 **Property Manager.** The manager of the Association shall at all times be a professional manager operating as an independent contractor. The Association shall not discontinue the management of the Association by a professional, and certified or accredited management company without the vote of: (a) Declarant, so long as Declarant owns any Condominium within the Community; and (b) a vote in accordance with Section 13.11; provided, however, that nothing contained in this Section 3.5.2 shall be deemed to prohibit or restrict the Board from changing professional management companies from one professional management company to another. If the Association decides to change professional management companies from one professional management company to another, then any replacement manager shall have at least five (5) years' experience in the management of residential communities and shall have earned accreditation or certification from a professional association management organization.

3.5.3 **Special Benefit Area Limitation.** For so long as Declarant owns any portion of the Property or Annexable Property or is exercising rights pursuant to Article 9 or any other rights granted under this Declaration, neither the Association nor any Owner, without the prior written consent of Declarant, shall create or eliminate a Special Benefit Area, or other such device to apportion any Common Expenses of the Association against fewer than all of the Owners and their Condominiums without the consent of Declarant.

3.6 **Indemnification of Management Parties.** No volunteer officer or volunteer director of the Board, or of any committee of the Association, or any officer of the Association, or any manager, or Declarant, or any agent or employee or consultant of Declarant (each a "Management Party"), shall be personally liable to any Owner or to any other party, including the Association, for any act or omission of any Management Party if such Person has, on the basis of such information as was actually possessed by him or her, acted in good faith without willful, wanton or gross misconduct when performing an act within the scope of the Person's duties (collectively, an "Official Act"). The Association has the power and duty to indemnify, defend, protect and hold harmless each Management Party for all damages and expenses incurred (including, without limitation, reasonable attorneys' fees and costs), and to satisfy any judgment or fine levied as a result of any action or threatened action brought because of an act or omission which such Person reasonably believed was an Official Act. Management Parties 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 successors-in-interest of any Person entitled to such indemnification. 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. 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 Applicable Laws on such terms and subject to such conditions as the Association may impose.

3.7 **Additional Provisions.** Notwithstanding any provisions of this Declaration to the contrary, by accepting a deed for a portion of the Property, the Association and the Owners acknowledge and agree that there may be Applicable Laws for the operation of the Association and the Property by the Association, including, without limitation, the Davis Stirling Common Interest Development Act of Section 4000, *et seq.* of the California Civil Code, and the Association and Owners shall comply with such provisions to the extent required by such Applicable Laws.

#### **ARTICLE 4 MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION**

*The Association will function as a corporate entity with Members who will participate in the governance of the various areas. This Article describes the membership of the Association. This Article also establishes the classes of voting rights. Additional provisions regarding the procedures for elections to and meetings of the Board are set forth in the Bylaws.*

##### **4.1 Membership.**

4.1.1 **Qualifications.** Each Owner of a Condominium which is subject to Assessment, including Declarant, shall be a Member of the Association. Ownership of a Condominium shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until such Owner's ownership interest in the Condominium(s) ceases at which time such Owner's membership in the Association shall automatically cease. Any reference in this Declaration to a vote of the Members shall refer only to those Members against whose Condominium Assessments have commenced unless otherwise specified in the Governing Documents.

4.1.2 **Members' Rights and Duties.** Each Member shall have the rights, duties, and obligations set forth in the Governing Documents, as the same may from time to time be amended.

4.1.3 **Approval by Members.** Except as otherwise provided in the Governing Documents, all matters requiring the approval of Members shall be deemed approved if: (a) Members holding a majority of the total Voting Power consent to them in writing as provided in the Bylaws; or (b) such matters are approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws.

4.1.4 **Transfer of Membership.** The Association membership of each Owner shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated,

conveyed or alienated in any way except on a transfer of title to each such Condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest in it shall operate automatically to transfer the appurtenant membership right in the Association to the new Owner.

4.1.5 **Commencement of Voting Rights.** An Owner's right to vote, including Declarant's right to vote, shall not vest until Regular Assessments have been levied upon such Owner's Condominium as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided for herein and in the other Governing Documents.

4.2 **Number of Votes.** The Association shall have two (2) classes of voting membership. The voting rights described in Sections 4.2.1 and 4.2.2 shall constitute the Voting Power of the Association:

4.2.1 **Class A Members.** Class A Members shall be all Owners, with the exception of Declarant (until the conversion of Declarant's Class B membership to a Class A membership as provided in Section 4.2.2), and shall be entitled to one (1) vote for each Condominium owned. When more than one (1) Person holds an interest in any Condominium, all such Persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to such Condominium.

4.2.2 **Class B Members.** Class B Member(s) shall be Declarant who shall be entitled to three (3) votes for each Condominium owned by Declarant in a Phase for which Assessments have commenced. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following to occur:

(a) The second anniversary of the first close of escrow for conveyance of a Condominium to a First Purchaser in a Phase covered by the most recently issued Public Report for any Phase of the Community; or

(b) The fourth anniversary of the first conveyance of a Condominium to a First Purchaser covered by the original Public Report for the first Phase of the Community; or

(c) In the event an FHA or VA blanket approval is in effect for the Community, the Class B membership shall cease and be converted to Class A membership on the earlier of the following: (i) one hundred twenty (120) days after the date by which seventy five percent (75%) of the total number of Condominiums within the Community have been conveyed to First Purchasers; or (ii) five (5) years after the conveyance of the first Condominium to a First Purchaser.

As long as Class B membership exists, no action by the Association that must have the prior approval of the Members shall be deemed approved by the Members unless approved by the appropriate percentage of Class A and Class B Members, except as otherwise set forth in this Declaration. Upon conversion to a single Class A voting membership, any action by the Association that must have the prior approval of the Members will require approval by at least a majority of the Members of the Association including at least a majority of Members other than Declarant.

4.3 **Joint Owner Votes.** The voting rights for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) Person exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

4.4 **Special Benefit Area Approvals.** Notwithstanding any other provisions of the Governing Documents, any action which negatively impacts the budget or maintenance of the Special Benefit Area

shall require the approval of the prescribed percentage of the class or classes of Members of only those Owners within such Special Benefit Area. Any amendment to this Declaration to eliminate or change the provisions of this Declaration relating to Special Benefit Areas shall require the approval of the prescribed percentage of the class of Members or the approval of Members other than Declarant (if applicable) of those Owners within such Special Benefit Area, except that if California Civil Code Section 5605 or any similar Applicable Laws requires the approval of all Owners, then this provision shall not apply.

## **ARTICLE 5 ASSESSMENTS**

*The Association will levy and collect various types of assessments to provide it with the funds it needs to perform its duties and obligations under this Declaration and the Governing Documents and for such other purposes as provided in this Article. This Article describes the Assessments which can be levied by the Association, the procedures for collection of such Assessments, and the rights and remedies if such Assessments are not paid when due.*

5.1 **Creation of Lien and Personal Obligation for Assessments.** Declarant, for each Condominium owned within the Property, hereby covenants, and each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all Assessments levied pursuant to the provisions of this Declaration. All Assessments levied hereunder, together with Additional Charges, shall be a charge on the land and shall be a continuing lien upon the Condominium of such Owner against which each such Assessment is made, the lien to be effective upon recordation of a Notice of Delinquent Assessment (defined below). Each such Assessment, together with Additional Charges, shall also be the personal obligation of the Person who was the Owner of such Condominium at the time when the Assessment fell due and shall bind its heirs, devisees, personal representatives and assigns. Unlike the lien for non-delinquent Assessments, the personal obligation for delinquent Assessments shall not pass to successive Owners, unless expressly assumed by such successive Owner. No such assumption of personal liability by a successor Owner shall relieve any Owner against whose Condominium the lien was levied from personal liability for delinquent Assessments. If more than one Person is the Owner of a Condominium, the personal obligation to pay such Assessment or installment respecting such Condominium shall be both joint and several.

5.2 **Funds Held in Trust.** The Assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely for the operation, care and maintenance of the Community. Upon the sale or transfer of any Condominium, the Owner's interest in the funds shall be deemed automatically transferred to the successor in interest of such Owner. A general operating fund shall be established for current expenses of the Association.

5.3 **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to perform the obligations and duties of the Association, including, without limitation, the improvement and maintenance of the Association Property, and Association Maintenance Areas and for any other maintenance responsibilities of the Association, and to reimburse the Association for the costs incurred in bringing an Owner into compliance with the Governing Documents. The Association shall not impose or collect any Assessment, penalty or fee that exceeds the amount necessary for the purpose or purposes for which it is levied. If the Association decides to use or transfer reserve funds to pay for litigation, the Association must provide general notice to its Members of the decision in accordance with California Civil Code Sections 4045 and 5520. 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, and a proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation as provided in California Civil Code Section 5520 which will be available at the Association's office. The accounting shall be updated monthly.

5.4 **Regular Assessments.**

5.4.1 **Payment of Regular Assessments.** The Assessments for Common Expenses ("Regular Assessment") for each Fiscal Year shall be established when the Association approves the

Budget for that Fiscal Year, which Budget shall be prepared in accordance with the provisions of the Governing Documents. Regular Assessments shall be levied on a Fiscal Year basis. Unless otherwise specified by the Board, Regular Assessments shall be due and payable in monthly installments on the first day of each month during the term of this Declaration. Declarant's obligation or subsidy for such Regular Assessments may be reduced in accordance with the terms of any maintenance or subsidy agreement executed by Declarant and the Association.

5.4.2 **Budgeting.** Each fiscal year the Association shall prepare, approve and make available to each Member a Budget as described in the Bylaws not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the Fiscal Year or as otherwise required by Applicable Laws.

5.4.3 **Restrictions for Tax Exemption.** As long as the Association seeks to qualify and be considered as an organization exempt from federal and state income taxes pursuant to Internal Revenue Code Section 528 and California Revenue and Taxation Code Section 23701t and any amendments thereto, then the Board shall prepare its annual Budget and otherwise conduct the business of the Association in such a manner consistent with federal and state requirements to qualify for such status.

5.4.4 **Reallocation of Assessments.** After conveyance of the first Condominium in a Phase to a First Purchaser, the Assessments shall be reallocated among all Condominiums then subject to Regular Assessment pursuant to Section 5.11 below in the same manner as described above.

5.4.5 **Non-Waiver of Assessments.** If the Association fails to fix Regular Assessments for the next Fiscal Year before the expiration of the then-current Fiscal Year, the Regular Assessment established for the preceding year shall continue until a new Regular Assessment is fixed.

5.5 **Special Assessments.** If the Association determines at any time that the estimated total amount of funds necessary to fund the Common Expenses of the Association for a given Fiscal Year is or will become inadequate to meet expenses for any reason, including, without limitation, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements, damage and destruction or condemnation of the Association Property, Association Maintenance Areas or any other areas which the Association is obligated to maintain, the Board shall determine the approximate amount necessary to defray such expenses, and may levy a special assessment ("Special Assessment"). Special Assessments shall be subject to the limitations set forth in Section 5.9; provided, however, that such limitation shall not apply to Special Assessments levied by the Board to replenish the Association's reserve account as provided in the Article of the Bylaws entitled "Association's Accounts." The Board may, in its discretion, prorate such Special Assessment over the remaining months of the Fiscal Year or levy the Assessment immediately against each Condominium as to which Assessments have commenced. The Association must comply with California Civil Code Section 5610.

5.6 **Capital Improvement Assessment.** In addition to any other Assessments provided for hereunder, the Association may levy a capital improvement assessment for the purpose of defraying, in whole or in part, the cost of any construction or replacement of a capital improvement ("Capital Improvement Assessment"). Capital Improvement Assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate. Capital Improvement Assessments shall be subject to the limitations set forth in Section 5.9.

5.7 **Compliance Assessments.** The Association may levy an assessment ("Compliance Assessment") against any Owner for bringing the Owner or the Owner's Condominium into compliance with the provisions of the Governing Documents and/or any other charge designated a Compliance Assessment in the Governing Documents, together with any Additional Charges. The Association shall have the authority to adopt a reasonable schedule of Compliance Assessments for any violation of the Governing Documents. If, after Notice and Hearing which satisfies California Corporations Code Section 7341 and California Civil Code Section 5855, the Owner fails to cure or continues such violation, the Association may impose an additional fine each time the violation is repeated, and may assess such Owner and enforce the Compliance Assessment as herein provided for nonpayment of an Assessment. A hearing committee may be established by the Association to administer the foregoing. A Compliance Assessment imposed by the

Association as a means to reimburse the Association for costs incurred by the Association in the repair of damage to Association Property and facilities caused by a Member or a Member's Invitee may become a lien against the Member's Condominium enforceable by the sale of the interest under Sections 2924, 2924b and 2924c. Notwithstanding any other provision in this Declaration to the contrary, except as provided in Section 5.14, Compliance Assessments imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents are Assessments but they may not become a lien against the Owner's Condominium that is enforceable by a power of sale under California Civil Code Sections 2924, 2924b and 2924c; provided, however, that this restriction on Compliance Assessment liens imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents, does not apply to late payments.

**5.8 Other Assessments.**

**5.8.1 Special Benefit Areas Assessments.** Special Benefit Area Assessments shall be collected from those members in each Special Benefit Area in the same manner as Regular Assessments. If, in addition to the Special Benefit Areas formed by Declarant, the Association forms any additional Special Benefit Areas, the Association shall obtain a vote of a majority of the Owners of the Condominiums benefited by and intended to be included within the proposed Special Benefit Area. Upon its approval, the Special Benefit Area shall be described in a Supplementary Declaration recorded by the Association. Nothing contained herein shall give the Association or any Owner any rights to approve Special Benefit Areas established by Declarant upon the recordation of this Declaration or the recordation of a Supplementary Declaration.

**5.8.2 Utility Assessments.** In addition to any other Assessments, the Association may levy Utility Assessments for the purpose of paying the cost of water allocated to each Residential Unit and other charges imposed by the Service Provider and the service charge and any other charges of the Metering Company as described in Section 5.25. All amounts levied and charged by the Metering Company on behalf of the Association as described in Section 5.25 are referred to as "Utility Assessments." Utility Assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate. Increases in Utility Assessments are not subject to the limitations set forth in Section 5.9, as they are based on each Owner's actual water use and will vary on a monthly basis.

**5.9 Changes to Assessments.**

**5.9.1 Limitation on Assessments.** From and after January 1st of the year immediately following the conveyance of the first Condominium to a First Purchaser, the annual Regular Assessment may not, except in the case of an Emergency, be increased by an amount greater than twenty percent (20%) of the Regular Assessments for the preceding Fiscal Year, and Special Assessments and Capital Improvement Assessments shall not be imposed that in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year, without the consent of the Members, constituting a quorum and casting a majority of the votes at a meeting or election of the Association conducted in accordance with the provisions of: (a) California Civil Code Section 5100, *et seq.* and the rules adopted by the Board pursuant thereto; and (b) California Corporations Code Sections 7510, *et seq.* and 7613. The Board may not increase the Regular Assessments for any Fiscal Year unless it has complied with California Civil Code Section 5605. For the purpose of this Section, a quorum shall mean more than fifty percent (50%) of the Members of the Association, pursuant to California Civil Code Section 4070, and an Emergency shall mean any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to repair or maintain the Association Property or other Association Maintenance Areas or other portions of the Community that the Association is obligated to maintain where a threat to personal safety is discovered; or
- (c) An extraordinary expense necessary to repair or maintain the Association Property, Association Maintenance Areas, or other portion of the Community that the Association is

obligated to maintain, that could not have been reasonably foreseen by the Board in preparing and distributing the Budget required under this Declaration and the Bylaws and California Civil Code Section 5300; provided, however, that prior to the imposition or collection of a Special Assessment under this Section, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense which is involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of Special Assessment.

5.9.2 **Calculation of Percentage Increase in Regular Assessments.** For the purpose of calculating whether an increase to Regular Assessments exceeds twenty percent (20%), the term "Regular Assessments" shall be deemed to include the amount assessed against each Condominium as a Regular Assessment plus any amount paid by Declarant as a subsidy pursuant to any subsidy agreements, to the extent such subsidy payments offset any amount which would otherwise be paid by Owners as Regular Assessments. Any increases authorized under this Section shall not be imposed unless the Board has complied with the budgetary requirements set forth in the Bylaws with respect to the Fiscal Year for which an Assessment is being levied.

5.9.3 **Range of Assessments.** During the period in which the Community is being built out and additional Phases may be annexed without the approval of the Association, Declarant, with the DRE's approval, has established a range of assessments in accordance with a budget on file with and reviewed by the DRE. The range in the amount of the monthly installment of annual Assessments has been established by calculating an initial "minimum annual assessment" and a "maximum annual assessment." Under this range procedure, as additional Phases are annexed into the Community, the monthly installment of annual Assessments levied by the Association can automatically increase or decrease, but will remain within the range stated in the DRE-reviewed Budget as set forth in the Public Report issued by DRE for such Phases. Except as otherwise provided herein, during any given fiscal year, the Board shall not levy an annual Assessment that exceeds the approved maximum annual Assessment for that Fiscal Year. Notwithstanding the foregoing, annual Assessments may be increased as provided in this Section 5.9.

5.10 **Allocation of Assessments to Condominiums.** The Assessments shall be allocated as set forth below.

5.10.1 **General Assessment Component.** The Regular Assessments, exclusive of the Common Expenses included within a Special Benefit Area Budget, shall, for Condominiums as to which Assessments have commenced, be fixed at a uniform rate for all Condominiums.

5.10.2 **Bungalows Special Benefit Area.** The Bungalows Special Benefit Area assessment amount shall be levied at a variable rate to be set forth in a Supplementary Declaration. The Association shall provide for a separate operating account and separate reserve account for the funds which are collected and expended on behalf of the Bungalows Special Benefit Area. The Association shall also provide for a reserve study and an annual review and disclosure of the reserves applicable to a Special Benefit Area to the same extent required for the other budgetary components.

5.10.3 **Other Assessments.** Special Assessments and Capital Improvement Assessments shall be allocated in the same manner as Regular Assessments. Compliance Assessments shall be levied directly to the individual Condominiums in a manner consistent with the provisions of Section 5.7.

5.10.4 **Utility Assessment Component.** Utility Assessments shall be allocated based upon each Owner's individual water use as set forth in Section 5.25 of this Declaration.

5.11 **Date of Commencement of Assessments.** The Assessments shall commence as to all Condominiums in a Phase subject to this Declaration on the first day of the month following the conveyance of the first Condominium in that Phase to a First Purchaser.

5.12 **Notice and Assessment Due Dates.** The Association shall provide notice by first class mail to each Owner (pursuant to California Civil Code Section 4040) of an increase in the Regular Assessment and notice of any Special Assessment or Capital Improvement Assessment (or increase therein) not less than thirty (30) days nor more than sixty (60) days prior to the increased Regular Assessment or the Special Assessment or Capital Improvement Assessment becoming due. The due dates for the payment of Regular Assessments normally shall be the first day of each month unless some other due date is established by the Association. The due date for Special Assessments or Capital Improvement Assessments shall be specified in the notice provided by the Association and if such Special Assessments or Capital Improvement Assessments are payable in installments, such installments normally shall be due the first day of each month unless some other due date is established by the Association. Each installment of Regular Assessments, Special Assessments and Capital Improvement Assessments shall become delinquent if not paid within fifteen (15) days after its due date. Additional Charges shall accrue with each delinquent installment but shall not, in any event, exceed the maximum rates permitted under California Civil Code Section 5600, *et seq.*

5.12.1 **Additional Charges.** As used in this Declaration, the other Governing Documents, "Additional Charges" means costs, fees, charges and expenditures, including, without limitation, attorneys' fees and costs, late charges, interest, administrative charges and recording and filing fees actually incurred by the Association in collecting and/or enforcing payment of Assessments, and other amounts levied under this Declaration. Additional Charges include, without limitation, the following:

(a) Reasonable attorneys' fees and costs incurred in the event an attorney is employed to collect any Assessment or sum due, whether by suit or otherwise;

(b) A late charge in an amount to be fixed by the Association in accordance with California Civil Code Section 5650 to compensate the Association for additional collection costs incurred in the event any Assessment or other sum is not paid when due or within any "grace" period established by Applicable Laws;

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

(d) Interest at the Applicable Rate; and

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

5.13 **Estoppel Certificate.** On not less than ten (10) days' prior written request, the Association shall execute, acknowledge and deliver to the party making such request a statement in writing stating both of the following: (a) whether or not, to the knowledge of the Association, a particular Owner is in default in connection with the payment of Assessments as to such Owner's Condominium; and (b) the dates to which installments of Assessments, have been paid as to such Condominium. Any such statement may be relied on by any prospective purchaser or Mortgagee of the Condominium, but reliance on such statement may not extend to any default not involving the payment of Assessments of which the signer had no actual knowledge.

5.14 **Collection of Assessments; Liens.**

5.14.1 **Right to Enforce.** The right to collect and enforce Assessments is vested in the Board acting for and on behalf of the Association. The Board may enforce the obligations of the Owners to pay Assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 5.14.5 enforce the lien rights created. Suit to recover a money judgment for unpaid Assessments together with all other Additional Charges shall be maintainable without foreclosing or waiving the lien rights. Notwithstanding anything else to the contrary herein, a monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents or

in bringing the Member and its Condominium into compliance with the Governing Documents may not be characterized nor treated as an Assessment that may become a lien against the Member's Condominium enforceable by a sale of the interest hereunder. The limitation in the preceding sentence however, does not apply to any Additional Charges.

5.14.2 **Notice of Assessments and Foreclosure.** The Association shall distribute a written notice regarding Assessments and foreclosure as set forth in California Civil Code Section 5730 during the sixty (60) day period immediately preceding the beginning of the Association's Fiscal Year.

5.14.3 **Delinquent Assessments.** In collecting delinquent Assessments, the Association shall comply with the requirements of California law, including, without limitation, California Civil Code Section 5650. As of the date of this Declaration, such laws require that, among other things, before the Association records a lien against the Owner's Condominium, the Association shall: (a) notify the delinquent Owner of certain matters; and (b) offer and, if requested by the Owner, participate in, dispute resolution procedures pursuant to the Association's "meet and confer" program required by California Civil Code Sections 5900 through 5920.

5.14.4 **Assignment.** The Association may not voluntarily assign or pledge the Association's right to collect payments or Assessments, or to enforce or foreclose a lien to a third party except where provided under California Civil Code Section 5735.

5.14.5 **Notice of Default; Foreclosure.** The Association can record a notice of default and, subject to the requirements and limitations of California Civil Code Section 5700, *et seq.*, can cause the Condominium with respect to which a notice of default has been recorded to be sold either in the same manner as a sale is conducted under California Civil Code Sections 2924, 2924b and 2924c or through judicial foreclosure and as provided in California Civil Code Section 5700, *et seq.* However, as a condition precedent to the holding of any such sale under Section 2924c, appropriate publication shall be made. In connection with any such sale, the Board is authorized to appoint a trustee for purposes of conducting the sale. If a delinquency is cured before sale of the Condominium or before completing a judicial foreclosure, or if it is determined that a lien previously recorded against a Condominium was recorded in error, the Board shall apply payments and follow the procedures set forth in California Civil Code Section 5685. On becoming delinquent in the payment of any Assessment or installment, each delinquent Owner shall be deemed to have absolutely assigned all rent, issues and profits of its Condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the Owners, shall have the power to bid upon the Condominium at foreclosure sale and to acquire, hold, lease, mortgage and convey the Condominium and vote as an Owner of the Condominium.

5.14.6 **Creation of Lien.** If there is a delinquency in the payment of any Assessment (other than a Compliance Assessment), any amounts that are delinquent, together with any Additional Charges, shall be a lien against the defaulting Owner's Condominium upon the recordation in the Official Records of a notice of delinquent assessment ("**Notice of Delinquent Assessment**") as provided in California Civil Code Section 5675. After its recordation, the Notice of Delinquent Assessment shall be mailed to all Owners of record for the Condominium for which the lien is being filed as provided in California Civil Code Section 5675.

5.14.7 **Payment of Assessments.** Any payments of sums due under this Article shall first be applied to Assessments owed, and only after Assessments owed have been paid in full shall the payments be applied to the Additional Charges. If an Owner requests a receipt after payment of a delinquent Assessment, the Association shall provide a receipt which sets forth the date of payment and the individual who received such payment.

5.15 **Additional Charges.** In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any assessments, each Owner agrees to pay Additional Charges incurred or levied by the Association including such additional costs, fees, charges

and expenditures as the Association may incur or levy in the process of collecting from that Owner monies due and delinquent subject to California Civil Code Section 5650, *et seq.*

5.16 **Waiver of Exemptions.** Each Owner, to the extent permitted by Applicable Laws, waives, to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption laws of California in effect at the time any Assessment or installment becomes delinquent or any lien is imposed.

5.17 **Subordination of Lien to First Mortgages.** When a Notice of Delinquent Assessment has been recorded, such Assessment shall constitute a lien on such delinquent Owner's Condominium prior and superior to all other liens, except: (a) all taxes; (b) bonds; (c) assessments and other levies that, by law, would be superior thereto; and (d) any First Mortgage now or hereafter placed upon any Condominium subject to Assessment. The sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a First Mortgage, or pursuant to the remedies provided in the First Mortgage, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from any Assessments thereafter becoming due or from the lien of any subsequent Assessment. Where the Mortgagee of a First Mortgage or other acquiror of a Condominium obtains title to the same pursuant to judicial or non-judicial foreclosure of a First Mortgage or pursuant to the remedies provided in the First Mortgage, such acquiror of title, and his or her successors and assigns, shall not be liable for the share of the Common Expenses or Assessments chargeable to such Condominium that became due prior to the acquisition of title to such Condominium by such acquiror, except for a share of such charges or Assessments resulting from a reallocation of such charges or Assessments that are made against all Condominiums.

5.18 **No Offsets.** All Assessments shall be payable in the amounts specified by the particular Assessment, and no offsets against such amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance, operation or enforcement.

5.19 **Personal Liability of Owner.** No Owner may exempt himself or herself from personal liability for Assessments, nor any part thereof, levied by the Association, nor release the Condominiums owned by him or her from the liens and charges hereof by waiver of the use and enjoyment of the Association Property and facilities thereof, or by abandonment of such Owner's Condominiums.

5.20 **Transfer of Condominiums.** After transfer or sale of a Condominium, the selling Owner or Owners shall not be liable for any Assessment levied on such Condominium after the date of transfer of ownership and written notice of such transfer is delivered to the Association. The selling Owner shall remain responsible for all Assessments and charges levied on his or her Condominium prior to any such transfer.

5.21 **Failure to Fix Assessments.** The omission by the Board to fix the Assessments hereunder before the expiration of any Fiscal Year for that or the next year shall not be deemed either a waiver or modification in any respect of the provisions of this Declaration or a release of the Owner from the obligation to pay the Assessments or any installment thereof for that or any subsequent Fiscal Year, but the Assessment fixed for the preceding Fiscal Year shall continue until a new Assessment is fixed.

5.22 **Property Exempt From Assessments.** The Association Property shall be exempt from the Assessments, charges and liens created herein.

5.23 **Uncompleted Facilities.** Although no land or Improvements devoted to dwelling use in the Community shall be exempt from Assessment, the Board may, but shall have no obligation to, exclude from the Regular Assessments those portions of budgeted Common Expenses that are for the purpose of defraying expenses and reserves directly attributable to the existence of Improvements to be maintained by the Association that are not complete at the time of the Assessment. Any such exemption from the payment of Assessment shall be in effect only until the earlier to occur of the following: (a) a notice of completion for the subject Association Property has been recorded; or (b) the Association Property has been placed into use.

**5.24 Association Property Improvements.** If the Improvements to be installed by Declarant on the Association Property in a Phase have not been completed prior to the issuance by the DRE of a Final Subdivision Public Report covering the Phase, and in the further event that the Association is the obligee under a bond to secure performance by Declarant to complete such Improvements, then if such Improvements have not been completed and a notice of completion filed within sixty (60) days after the completion date specified in the planned construction statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any such Improvement, then the Board shall consider and vote on said question if such Improvements have not been completed and a notice of completion filed within thirty (30) days after the expiration of the extension period. In the event that the Board determines not to take action to enforce the obligations secured by the bond or does not vote on the question as above provided, then, in either such event, upon petition signed by Members representing five percent (5%) or more of the Voting Power of the Association, excluding the Voting Power of Declarant, the Board shall call a special meeting of the Members of the Association to consider the question of overriding the decision of the Board or of requiring the Board to take action on the question of enforcing the obligations secured by the bond. Said meeting of Members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following receipt of the petition. At said meeting, a vote of a majority of the Voting Power of Members of the Association, excluding the vote of 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 the decision by initiating and pursuing appropriate action in the name of the Association.

**5.25 Water Meters.** Each Owner, by acceptance of a deed, acknowledges that the public utility ("Service Provider") provides water and sewer service to the Community. In connection with the development of the Community, Declarant has installed several public water meters for the Community. Some of the meters will meter the water used for irrigation purposes associated with the irrigation of the Association Property and certain other portions of the Community which the Association is obligated to maintain. The other public water meters will be used to measure water usage of all the individual Condominiums situated within the Community. The Service Provider will prepare a bill based upon overall water usage through the Service Provider's water meters. The Association will be responsible for the payment of this bill to the Service Provider. Individual submeters will be installed on each Condominium that measure water usage for each of the individual Condominiums, and each Owner will be responsible for paying its share of such water bill in accordance with the procedures set forth below, which amount shall be considered the Utility Assessment for such Residential Unit.

**5.25.1 Allocation of Water Bills.** In order to calculate the share attributable to each Residential Unit for water, sewer and other charges imposed by the Service Provider, the Association shall have the right to enter into a contract with a water metering service company ("Metering Company"). The Metering Company is authorized to act on behalf of the Association to levy Utility Assessments as set forth herein. The Metering Company will be responsible for (a) reading the individual submeters, (b) allocating the water and other charges imposed by the Service Provider to the individual Condominiums and (c) preparing the individual bills for delivery to each Owner. Additionally, the Metering Company will impose a service charge for its services which will be charged to each Owner with a submeter. All amounts levied and charged by the Metering Company on behalf of the Association are referred to as the Utility Assessments. Each Owner will be responsible for paying directly as a Utility Assessment to the Metering Company such Owner's share of water and other charges imposed by the Service Provider and the service charge to the Metering Company prior to the due date. The Metering Company will provide the Association with a statement of all Utility Assessments due by the Owners with submeters on a regular basis along with the Utility Assessments received by the Metering Company. If, in the future, there are no companies which can provide the water metering service, then it will be the responsibility and obligation of the Association to allocate costs for water and sewer usage and the other charges levied by the County to the Owners.

**5.25.2 Failure to Pay.** If an Owner with a submeter fails to pay the Utility Assessments when due ("Defaulting Owner"), the Defaulting Owner will be responsible for any penalties or delinquent amounts levied by the Service Provider, the Metering Company, and/or the Association. If the Defaulting Owner fails to pay the Utility Assessments, including any penalties or delinquent amounts, the Association

may pursue remedies for failure to pay Assessments as provided under this Declaration, including the filing of liens and foreclosure.

## ARTICLE 6 USE RESTRICTIONS

*This Article sets forth restrictions on the use of the Property. The restrictions contained in this Article will likely have the greatest impact on day to day living in the Community. Each Owner shall comply and cause its Occupants and Invitees to comply with the restrictions set forth in this Article.*

### 6.1 Use Restrictions Applicable to All Condominiums.

6.1.1 **Residential Use.** Condominiums shall be used for residential purposes only, provided, however, that any Condominium may be used incidentally for the purpose of operating a home based small business if, and only if: (a) the business is operated solely within the Condominium; (b) the business is limited to arts and crafts, the rendition of professional services, or other similar entities; (c) the business is operated by the Owner whose principal residence is the Condominium, by a Lessee whose principal residence is the Condominium or by a member of such Owner's or Lessee's family whose principal residence is the Condominium; (d) there is no sales activity conducted within the Association Property, no customers visiting the Condominium and no advertising anywhere in the Community; (e) the operation is permitted by and is at all times in compliance with Applicable Laws; and (f) the operation of the business does not result in: (i) the violation of any of the other provisions of this Declaration; (ii) any unreasonable increase in the flow of traffic within the Community; (iii) any unreasonable odor, noise, or vibration outside of the Attached Residential Unit; (iv) any parking problems within the Community; or (v) any other adverse conditions to the Occupants of the individual Residences. Notwithstanding the foregoing, nothing contained herein shall be deemed to prohibit any home based business specifically required to be allowed by Applicable Law. In addition to the foregoing, pursuant to the requirements of the U.S. Department of Housing and Urban Development, in no event shall more than twenty-five percent (25%) of the floor area within a Residential Unit, nor more than twenty-five percent (25%) of the total floor area of the Community be used for the non-residential/commercial purposes provided for in this Section.

6.1.2 **Commercial Use.** Except as otherwise provided in this Declaration, including without limitation Section 6.1.1, no part of the Community shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

6.1.3 **Rental of Condominiums.** An Owner shall be entitled to rent such Owner's Condominium subject to the restrictions contained in the Governing Documents, any contractual agreement between Declarant and each original Owner for such Owner's Condominium as to such parties, any other restrictions of record applicable to such Owner's Residence and all Applicable Laws. Any rental or lease agreement shall: (a) be in writing; (b) provide that the lease is subject to the Governing Documents; and (c) provide that any failure to comply with any provisions of the Governing Documents shall be a default under the terms of the rental or lease agreement. A copy of the rental or lease agreement shall, upon request, be provided to the Association. Owners shall, at all times, be responsible for their Lessee's compliance with the Governing Documents. A Lessee shall have no obligation to the Association to pay Assessments nor shall any Lessee have any voting rights in the Association. Except as required to be permitted under Applicable Laws, no Owner may lease only a portion of such Owner's Condominium unless such Owner also occupies the Condominium. No Owner may lease all or any portion of such Owner's Condominium for hotel, motel or transient purposes. For purposes of this restriction, any lease which is either for a period of fewer than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel shall be deemed to be for transient or hotel purposes and shall be prohibited. Notwithstanding the foregoing, if there are any FHA or VA insured loans affecting a Residential Unit, any restrictions in this Declaration on renting or leasing that violate any FHA or VA requirements related to renting or leasing shall not apply to such Residential Units.

6.1.4 **Further Subdivision.** Except as otherwise provided in this Declaration, no Owner may further partition or subdivide the Owner's Condominium, including any division of such Owner's Condominium into time-share estates or time-share uses. This provision does not limit the right of an Owner to: (a) rent or lease the entire Condominium (or a portion of the Condominium in accordance with Section 6.3 above) by means of a written lease or rental agreement subject to the Governing Documents; (b) sell such Owner's Condominium; or (c) transfer or sell any Condominium 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.

6.1.5 **Time Sharing.** A Condominium may not be divided or conveyed on a time increment basis (commonly referred to as "time sharing") of measurable chronological periods. The term "time sharing" as used herein shall include, but shall not be limited to, any agreement, plan, program or arrangement under which the right to use, occupy or possess the Condominium, Condominiums or any portion thereof in the Community rotates among various persons, either corporate partnership, individual or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like-kind use privileges, according to a fixed or floating interval or period of time sixty (60) consecutive calendar days or less.

6.1.6 **Window Coverings.** Temporary window coverings ("Temporary Window Coverings") in a design and color that does not conflict with the surrounding Improvements (but excluding aluminum foil, newspapers, or any other contrasting material) shall be permitted for a maximum period of ninety (90) days from the date that a Condominium is conveyed to an Owner by Declarant. Except as specifically provided above, no Temporary Window Coverings shall be used to cover any door or window of any Condominium. All window coverings (including Temporary Window Coverings) shall be of a neutral color harmonious with and not conflict with the color scheme of the exterior wall surface of the Condominium.

6.1.7 **Animals.** Only domestic animals that are kept as household pets and are not kept, bred or raised for commercial purposes are permitted to be maintained within the Community. No Owner shall keep more than the maximum capacity allowed by the County. Domestic reptiles, birds, rodents and fish shall be permitted so long as such animals are kept in the interior of a Residence. No animal shall be permitted to be maintained, at any time, within any recreational areas within the Community. Notwithstanding the foregoing, the Association Rules may further limit or restrict the keeping of pets and the Board shall specifically have the power to prohibit the keeping or maintenance of any animal, which, in the opinion of the Board, after Notice and Hearing, is deemed to constitute a nuisance to any other Owner or which constitutes a threat to personal safety. Each Owner shall be absolutely liable to other Owners and their Invitees for any damage to persons or property caused by any pet brought upon or kept upon the Community by such Owner or any Invitee of such Owner. Each Owner shall clean up after animals that have deposited droppings or otherwise used any portion of the Community or public street abutting or visible from the Property. Dogs must be kept within an enclosure or on a leash held by a person capable of controlling the animal when outside the Residential Unit. Nothing contained herein shall constitute a restriction on human assistance animals.

6.1.8 **Antenna Restrictions.** No Owner shall install any antenna, satellite dish, or other over-the-air receiving device ("Antenna"): (a) on any real property which such Owner is not entitled to exclusively use or control, as provided in Title 47 U.S.C. §§ 1, *et seq.*, 47 CFR § 1.4000 and any other Applicable Laws, rules and decisions promulgated thereunder (collectively "Antenna Laws"); (b) in a particular location if, in the Board's opinion, the installation, location or maintenance of such Antenna unreasonably affects the safety of any Person, or for any other safety-related reason established by the Board; or (c) that is of a size larger than is permitted under the Antenna Laws. If an Owner is entitled to install an Antenna under the foregoing requirements, such Owner shall provide the Board with written notice that such Owner intended to install the Antenna and provides evidence of compliance with the foregoing requirements. If an Owner desires to install an Antenna, other than as described above, such Owner may do so only upon the prior approval of the Board pursuant to Article 8. The Association shall not impose or enforce any restrictions upon Antennae that are inconsistent with the Antenna Laws. Notwithstanding any provision hereof, this Section shall be interpreted to comply with state and federal laws applicable to antennas in effect at the time of enforcement of this Section. In that regard, this Section shall not be

interpreted or enforced in a manner which would: (i) unreasonably delay or prevent installation, maintenance or use of such Authorized Antenna; (ii) unreasonably increase the cost of installation, maintenance or use; or (iii) preclude reception of an acceptable quality signal.

6.1.9 **Signs and Displays.** No sign, advertising device or other display of any kind shall be displayed in the Community, except for the following:

(a) entry monuments and community identification signs, subject to compliance with County signage criteria;

(b) traffic or parking control signs maintained by the Association;

(c) for each Condominium, one (1) nameplate or similar Owner name or address identification which complies with the Design Guidelines;

(d) for each Condominium, one (1) sign advertising the Condominium for sale or lease that complies with the following requirements, subject to California Civil Code Sections 712 and 713:

(i) the sign is a reasonable size; and

(ii) the sign is in compliance with the Design Guidelines or is otherwise authorized pursuant to Article 8;

(e) noncommercial signs permitted by California Civil Code Section 4710; and

(f) such other signs or displays authorized pursuant to Article 8.

In addition to the foregoing, all signs must comply with all Applicable Laws.

6.1.10 **Drainage and Erosion Control.** There shall be no interference with the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Board. For the purpose hereof, "established" drainage is defined as the drainage that exists at the time of the first close of escrow for the sale of a Condominium, or that which is shown on any plans approved by the Board. Each Owner shall have the duty and obligation to maintain the drainage situated within any subterranean or other drainage pipes and other drainage facilities located within the yard areas (as to a Detached Condominium), free of debris and any other material that may impede the flow of water. Each Owner shall regularly inspect and, if necessary, clean out any drainage facilities located within such Owner's Exclusive Use Easement Areas or yard area of such Owner's Detached Condominium, as applicable. If such Owner fails to maintain such drainage and as a result, imminent danger to Person or property may result, then the Association shall have the right of access onto the Detached Condominium and/or Exclusive Use Easement Area for the purpose of clearing debris and other material so as to not impede the flow of water. This right of access shall be exercised only for the purpose of preventing damage to Persons and property and the entering party shall use reasonable care so as to not cause any damage to the Residence. The Owner shall reimburse the Association for any costs and expenses incurred in clearing such debris pursuant to the provisions of this Declaration.

6.1.11 **Landscaping.** Each Owner shall landscape the yard area within such Owner's Detached Residential Unit or any area within an Exclusive Use Easement Area that requires landscaping within six (6) months of the conveyance of the Condominium to the Owner, pursuant to landscaping plans approved pursuant to Article 8.

(a) **No Over Irrigation.** No Owner shall carelessly use water, allow overflow of water or over irrigate any plants.

(b) **Landscaping Restriction.** Owners and the Association shall not install water intensive landscaping. Low water use landscaping shall be installed within the Community in accordance with the requirements of Ordinance 859 (as adopted and any amendments thereto) and the County of Riverside Guide to California Friendly Landscaping. The Association shall connect to a reclaimed water supply for landscaping irrigation purposes when reclaimed water is made available.

#### 6.1.12 **Parking and Vehicular Restrictions.**

(a) **Authorized Vehicles.** The following vehicles are "Authorized Vehicles": standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles and pickup trucks having a manufacturer's rating or payload capacity of one (1) ton or less and vehicles which are the principal source of transportation for an Owner. Authorized Vehicles may be parked in any portion of the Community intended for parking of motorized vehicles subject to this Section; provided, however, no Owner may park an Authorized Vehicle in a manner which the Association determines either restricts the passage of pedestrians or vehicles over streets or sidewalks in the Community or extends beyond the limits of the space where the Authorized Vehicle is parked. The Association has the power to identify additional vehicles as Authorized Vehicles in the Association Rules to adapt this restriction to other types of vehicles.

(b) **Prohibited Vehicles.** The following vehicles are "Prohibited Vehicles": (a) recreational vehicles (e.g., motorhomes, travel trailers, camper vans and boats); (b) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks and limousines); (c) buses or vans designed to accommodate more than ten (10) people; (d) vehicles having more than two (2) axles; (e) trailers; (f) inoperable vehicles or parts of vehicles; (g) aircraft; (h) boats; (i) any vehicles or vehicular equipment deemed a nuisance by the Board, and (j) any other vehicles not classified as an Authorized Vehicle. Prohibited Vehicles may not be parked, stored or kept within the Property within the Community except for brief periods for loading, unloading, making deliveries or emergency repairs. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Association.

(c) **General Restrictions.** Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or under the control of an Owner or an Occupant must be parked in that Owner's garage or within that Owner's Exclusive Use Garage Area (as to a Bungalow Detached Unit). Pursuant to the Community Entitlements, the Association must implement a parking pass program and all vehicles owned by Occupants must be registered with the Association and display a sticker. If a temporary vehicle is being used by an Occupant for a prolonged period, the Association must be notified or the Occupant may be fined. Vehicles owned by Occupants which are not registered with the Association are subject to a fine. Owners and Occupants may not park in the Private Streets. There shall be no parking in the Community that obstructs free traffic flow, constitutes a nuisance, violates the Association Rules, or otherwise creates a safety hazard. Any vehicles parked in "No Parking Zones" where posted, such as cul de saces or streets during trash days, will be towed immediately. All guest parking within the Private Streets shall be limited to forty-eight (48) continuous hours unless otherwise specifically authorized in writing by the Board and the applicable resident has obtained a temporary guest parking pass with an expiration date to be displayed on the dashboard of the guest vehicle. The Association Rules may further limit such guest parking. The parking areas shall be used for parking Authorized Vehicles only and shall not be used for storage, living, recreational or business purposes. No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property, with the exception of minor or emergency automobile repairs within the garage. There is no guarantee, representation or assurance that vehicles will fit into the garages. Notwithstanding the foregoing, no storage is allowed in any garage which interferes with the parking of functional, operating, registered street legal vehicles.

(d) **Parking Regulations.** The Association may establish additional regulations regarding parking areas, including designating "parking," "guest parking," and "no parking" areas. Any vehicle parked within a fire lane may be towed without prior notice. The Board may take all actions necessary to enforce all parking and vehicle use regulations for the Property, including removing

violating vehicles from the Community pursuant to California Vehicle Code Section 22658 or other Applicable Laws.

(e) **Garage Use.** Garages shall be used for parking vehicles only and shall not be converted for living, recreational activities, business or storage that would prevent the ability of an Owner or Occupant to park the number of vehicles in the garage that the garage was designed for, unless approved by the Board and the County. Doors to garages shall be kept closed except when actively in use. Each Owner shall ensure that such garage accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant.

#### 6.1.13 **Exterior Modifications and Installations.**

(a) **Generally.** This Section does not apply to Improvements installed by Declarant.

(b) **Outside Installations.** The following items are prohibited unless approved by the Board: (a) outside installations, including balcony, patio or deck covers, wiring, air conditioning equipment, water softeners, other machines and other Improvements; (b) Improvements to deck or balcony railings; and (c) other exterior additions or alterations.

(c) **Outside Drying and Laundering.** No exterior clothesline shall be erected or maintained or hung on balconies or railings within the Community. There shall be no exterior drying or laundering of clothes or any other items on any Exclusive Use Balcony Area or Association Property.

(d) **Storage and Other Restrictions for Balcony.** No Owner shall use any Exclusive Use Balcony Area for storage purposes, including, without limitation, the storage of bicycles or surf boards. Unless installed by Declarant, all plants kept in the Exclusive Use Balcony Areas shall be kept in pots or planters which do not allow water to drain outside of such pot or planter, and no vegetation shall be permitted to extend beyond the railings, walls and/or other boundaries of the Exclusive Use Balcony Areas, except as approved by the Board. The Board may require approval of any potted plants. No Owner shall change or alter the surface of any Exclusive Use Balcony Areas without the consent of the Board.

(e) **Basketball Standards.** No basketball standards or fixed sports apparatus shall be attached to any Condominium or placed anywhere within the Association Property.

(f) **Exterior Lighting.** No additional exterior lighting may be installed by an Owner without the consent of the Board or Design Review Committee pursuant to Article 8 below. Any exterior electrical, gas or other artificial lighting installed by an Owner shall be positioned, screened, or otherwise directed or situated and of such controlled focus and intensity so as not to unreasonably disturb the residents of any other Condominiums or any other adjoining property or public rights-of-way. All outdoor luminaires shall be appropriately located and adequately shielded and directed such that no direct light falls outside the parcel of origin, on onto the public right-of-way. In addition, outdoor luminaires shall not blink, flash, or rotate and shall comply with the requirements of Riverside County Ordinance No. 915. All proposed outdoor lighting systems shall be in conformance with County Ordinance No. 655. Further rules regarding exterior lighting may be promulgated by the Board. Some of the exterior lighting on Bungalow Condominium Buildings and Residences provides light to certain exterior portions of the Community and contains a photocell which will automatically control their operation. Such exterior lighting shall not be manually turned off and the photocell shall not be altered in any way by the Owners. Holiday lighting shall be in conformance with the Design Guidelines.

6.1.14 **Community Entitlements.** Each Owner and the Association shall comply with all applicable requirements and restrictions set forth in the Community Entitlements.

6.1.15 **Owner Modifications to Association Property/Association Maintenance Areas.** Except as otherwise specifically provided in this Declaration, no Owner shall have the right to alter,

paint, decorate, remodel or landscape any part of the Association Property nor any Association Maintenance Areas without the prior written consent of the Association.

6.1.16 **Use Not to Impair Insurance.** No Condominium shall be occupied, improved or used for any purpose or in any manner which shall cause such Condominium or any Condominium to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any such policy or policies representing such insurance to be cancelled or suspended, or the company issuing the same to refuse renewal thereof or to increase the premium therefor.

6.1.17 **Owners Liable for Damage.** Each Owner shall be liable to the Association for all damages to the Community, including without limitation, the buildings and landscaping caused by such Owner, such Owner's guests (or other licensees) or any occupant of such Owner's Condominium as such liability may be determined under California law. Each Owner shall be responsible for compliance with the provisions of the Community Governing Documents, Residential Governing Documents and the Governing Documents by such Owner's licensees and occupants of such Owner's Condominium.

6.1.18 **Rights of Disabled.** Subject to the provisions of Article 8, the Design Guidelines, each Owner may modify such Owner's Condominium and the route over the Association Property leading to the front door of its Condominium, at such Owner's sole expense, to facilitate access to its Condominium 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 Applicable Laws.

6.1.19 **Compliance With Requirements Regarding Storm Water Pollution.** Each Owner acknowledges that water that enters a storm drain flows directly to waterways, creeks, streams, rivers, lakes and/or oceans. Accordingly, the National Pollutant Discharge Elimination System, the Federal Clean Water Act, and the policies and ordinances of the County prohibit discharging anything other than natural rain water into storm drainage systems, including gutters and streets which drain into storm drains. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, antifreeze, solvents, paints, paint thinners, wood preservatives, fertilizers, lawn clippings, yard waste, detergents, pet waste, paints and other such materials and pollutants shall not be discharged into any street, public or private, gutters, or into storm drains or storm water conveyance systems. The disposal of such pollutants and materials into a storm drain system may result in significant penalties and fines and such Owner may be responsible for any activities by Owner's contractors (e.g., painters, landscapers, etc.) who dispose of such pollutants from an Owner's Condominium or Exclusive Use Easement Area into a storm drain system. Use and disposal of pesticides, fungicides, herbicides, insecticides, fertilizers, and other such chemicals shall meet all requirements of any Governmental Agencies. All Owners and the Association are required to comply with such restrictions. Owners are encouraged to consult with the Governmental Agencies concerning the proper disposal of any Hazardous Materials.

(a) **Storm Water Pollution Prevention Best Management Practices.** To comply with the requirements of the Governmental Agencies and the Storm Water Agreement in connection with the storm water pollution prevention Best Management Practices, each Owner and the Association agree that they will, at all times, maintain all Improvements located within a Condominium, or in the case of the Association, within the Association Property, in a clean, safe and attractive condition, free and clear of any and all debris and in accordance with the Storm Water Agreement and any agreements that are recorded or may be recorded against the Community. All landscaping shall be maintained by an Owner in a manner that will prevent soil erosion and minimize sediment transport. To the extent that the Declarant has installed any erosion protection devices (e.g., sand bags) an Owner shall not remove such devices unless and until all landscaping has been installed, and has been sufficiently grown so as to prevent soil erosion and transport of any sediment. All trash receptacles within Owner's Condominium shall be closed at all times except when disposing of trash. The Association and the Owners shall comply with the Storm Water Agreement and the Water Quality Management Plan and all applicable Best Management Practices and perform all maintenance that may be imposed by any water quality management plan that may affect the Property. The costs of the Association's portion of such maintenance, if any, shall be treated as a Common Expense. "Best Management Practices" means all best management practices imposed from

time to time by Applicable Laws or Governmental Agencies, including without limitation, pollution control practices or devices, erosion control to prevent silt runoff during construction, general housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants to stormwater, receiving water or stormwater conveyance system to the maximum extent practicable.

(b) **Liability to Declarant.** So long as Declarant owns any portion of the Property or the Annexable Property, if an Owner or the Association is not in compliance with the provisions of this Section and, as a result, Declarant may incur any liability, Declarant shall have the right but not the obligation to enter upon the Condominium to correct such violation. Any Owner who violates the requirements of this Section, and the Association to the extent the Association violates the requirements of this Section, shall indemnify, protect, defend and hold Declarant and Declarant's officers, directors, successors and assigns entirely free and harmless from and against any liabilities, penalties, costs, expenses and actions, including, without limitation, attorneys' fees and costs arising from or attributed to a violation of the provisions of this Section and shall within fifteen (15) days after request from Declarant, reimburse Declarant for any costs and expenses incurred by Declarant in correcting any violation by any Owner or the Association of this Section.

6.1.20 **Trash Disposal, Pickup and Recycling.** No garbage, trash, rubbish, or other waste material shall be kept or permitted within the Community except in waste receptacles provided for the use of all Owners. All trash must be bagged or otherwise sealed before disposal in Community trash facilities. Under no circumstances may explosives, fireworks, or highly flammable materials such as gasoline, kerosene, oil, oil-based paints, or solvents, be disposed of in the dumpsters or anywhere else in the Community. Owners shall comply with the Association Rules regarding trash disposal and recycling.

6.1.21 **View Impairment.** There is no representation that any view exists from any Condominium. By accepting a deed to a Condominium, each Owner acknowledges that grading of, construction on or installation of Improvements, including landscaping, may impair whatever view may exist from the Owner's Condominium, and each Owner consents to such impairment and waives any claim for view impairment. Each Owner and the Association, on behalf of the Members, hereby consent to such view impairment and/or loss of privacy. By accepting a deed to a Condominium, each Owner acknowledges that: (a) there are no protected views, no Condominium is assured of the existence, quality or unobstructed continuation of any particular view, and Declarant makes no representation or warranty that there are now, or will be in the future, any such views or that any view will impact the view or desirability of any Condominium; (b) any view from the Condominium is not intended as part of the value of the Condominium and is not guaranteed; and (c) any future development, construction, landscaping, growth of trees, or other installation of Improvements by Declarant or other Owners or of properties surrounding the Community may impair the view from any Condominium and/or may allow other persons to have a line of sight into Owner's Condominium or yard, which may affect the use and enjoyment of the Owner's Condominium, including Owner's privacy. There are no express or implied easements appurtenant to any Condominium for view purposes or for the passage of light and air over another Condominium or any other property whatsoever.

6.1.22 **Offensive Conduct, Nuisances.** No noxious or offensive activities, including, but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the Community. Nothing shall be done on or within the Community that may be or may become a nuisance to the residents.

6.1.23 **Mineral Exploration.** No Property within the Community shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind. No well for the production of, or from which there is produced, water, oil or gas shall be operated within the Community, nor shall any machinery, appliance or structure be placed, operated or maintained thereon for use in connection with any trading, manufacturing or repairing business. No slant drilling shall be permitted.

6.1.24 **Post Tension Slabs.** The concrete slabs for the Bungalow Condominium Buildings and Residences within the Detached Residential Units may be reinforced with a grid of steel cables which were installed in the concrete and then tightened to create very 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 remodel plumbing, etc.) is very hazardous and may result in serious damage to the Condominiums and/or personal injury. By accepting a grant deed to a Condominium in the Community, each Owner specifically covenants and agrees that: (a) such Owner shall not cut into or otherwise tamper with the Post Tension Slab; (b) such Owner shall not knowingly permit or allow any person to cut into or tamper with the Post Tension Slab so long as such Owner owns any interest in the Condominium; (c) such Owner shall disclose the existence of the Post Tension Slab to any tenant, lessee or subsequent purchaser of the Condominium; and (d) such Owner shall indemnify, protect, defend and hold Declarant and its officers, employees, contractors and agents, free and harmless from and against any and all claims, damages, losses, or other liability (including, without limitation, attorneys' fees) arising from any breach of this Section.

**6.1.25 Solar Shade Restrictions.** After the installation of a Solar Energy System on a Residential Unit, neither an Owner of an adjacent Residential Unit nor the Association (in the case of adjacent Association Property) shall allow a tree or shrub to be placed or, if placed, to grow so as to cast a shadow in violation of the standards set forth in California Public Resources Code Section 25982. The Owner, not the Design Review Committee, shall bear the burden of calculating compliance of any such tree or shrub with the provisions of California Public Resources Code Section 25982. The restrictions of this Section do not apply to a tree or shrub planted prior to the installation of a Solar Energy System or to the replacement of a tree or shrub that had been growing prior to the installation of a Solar Energy System and which, subsequent to the installation of the Solar Energy System, dies or is removed for reasons of public health or safety. Approval by the Design Review Committee of the installation of particular trees or shrubs on a Residential Unit adjacent to a Solar Energy System or the installation of particular trees or shrubs by the Association on Association Property adjacent to a Solar Energy System shall not be deemed to waive or alter the provisions of this Section, and the Design Review Committee shall not be liable to the Owner of the Solar Energy System for any such approval.

(a) **Impact of Shading Restrictions.** Depending upon the dimensions and topography of certain Residential Units, the solar shade restrictions set forth in this Section and the Solar Shade Control Act may prevent or severely restrict (a) the planting of any trees, or the planting of medium or large trees, in the yard area, if any, of the Residential Unit. The solar shade restrictions set forth in this Section and the Solar Shade Control Act may have the foregoing impacts on Units on which no Solar Energy Systems are installed or constructed.

(b) **No Restriction on Adjacent Property.** In some cases the Residential Units encumbered by this Declaration may be adjacent to other real property that is not encumbered by this Declaration. In such cases, adjacent real property may only be subject to applicable laws including without limitation the Solar Shade Control Act.

**6.1.26 Compliance with Laws, Etc.** Nothing shall be done or kept in any Condominium or in the Association Property that might increase the rate of, or cause the cancellation of, insurance for the Community, or any portion of the Community. No Owner or the Association shall permit anything to be done or kept in the Owner's Condominium or any Exclusive Use Easement Area appurtenant thereto or in the Association Property that violates Applicable Laws, including any Applicable Laws pertaining to the use or storage of any hazardous, contaminated or toxic materials.

**6.1.27 ADUs.** ADUs are only permitted to the extent required to be allowed by State of California law and to the extent such ADU has been approved by the County and the Association. In addition to the requirements set forth in Section 8.2 below, all ADUs must be constructed in a professional and workman like manner and comply in all respect with all applicable laws and all restrictions contained herein applicable to the Condominium.

**6.2 Use Restrictions Applicable to Attached Condominiums.** The restrictions set forth in this Section 6.2 shall only apply to the Attached Condominiums.

6.2.1 **Water Beds and Limitations on Size of Aquariums.** No water beds shall be permitted in any Attached Residential Unit and as specified above, no Owner shall maintain in such Owner's Attached Residential Unit any aquarium or other container holding thirty (30) or more gallons of water. Each Owner acknowledges that substantial damage to other Attached Residential Units and/or Association Property may occur as a result of a violation of this restriction.

6.2.2 **Modifications of Bungalow Condominium Buildings.** Nothing may be done in any Attached Residential Unit or in, on or to the Association Property which may impair the structural integrity of a Bungalow Condominium Building or which structurally alters any such building except as otherwise expressly provided in this Declaration and approved by the Association pursuant to Article 8 below. No Owner shall cause any penetration, cutting or other modifications to any doors that provide entry to such Owner's Attached Residential Unit, windows, window frames or the Bungalow Condominium Building exterior walls, perimeter or bearing walls, ceilings or floors without the prior written consent of the Association. The Association shall have the right to disallow all such modifications or the Association may provide guidelines with respect to those modifications that it allows or disallows. Neither Declarant nor any employee, consultant, contractor or subcontractor of Declarant shall be responsible for any damage or injury resulting from or arising in connection with any alteration of any portion of any Attached Residential Unit or Association Property. The Association and each Owner shall hold Declarant harmless from and indemnify Declarant against all claims, demands, losses, costs (including attorney's fees), obligations and liabilities arising out of or in connection with the failure of the Association or an Owner, respectively, to comply with the provisions of this Section.

6.2.3 **Fire Life Safety Systems.** No Owner shall remove, alter or impair or tamper or interfere with the proper operation of the Fire Life Safety System installed by Declarant in the Owner's Attached Residential Unit.

6.2.4 **Vibrations.** No Owner shall install or use in such Owner's Attached Residential Unit any fixtures or equipment which will cause unreasonable vibrations, noise or annoyance to other Owners.

6.2.5 **Solar Requirements for Bungalow Condominium Buildings.** The provisions of this Section 6.2.5 shall apply to the Owners of a Condominium.

(a) **Contractors.** Work on a Solar Energy System located on a Bungalow Condominium Building ("Solar Work") shall be performed by an actively licensed, bonded and adequately insured contractor who is trained and certified to perform Solar Work on the type of roof-mounted Solar Energy System subject to the Solar Work ("Solar Contractor") and shall at all times while performing any Solar Work maintain insurance as may be required by the Association Rules. The Association shall have the right to impose additional requirements on a Solar Contractor in order to assure that any Solar Work will be performed in a safe manner in compliance with all Applicable Laws.

(b) **Liens.** Owner shall not suffer or permit to be enforced against the Association Property, Common Area or any Condominium not owned by Owner, any mechanics', materialmen's, contractors' or subcontractors' liens, claims or demands arising from the activities of the Owner or his/her agents on the Community.

(c) **Owner Responsibility for Damage.** Owner assumes full responsibility for any damage resulting to persons or to the Association Property, the Residential Unit, other residences in a Bungalow Condominium Building (as to Solar Energy Systems installed on a Bungalow Condominium Building), or other persons caused by the Solar Work, including without limitation, damage to the structural integrity, water-tight properties, durability, load capacity, roof maintenance expenses or useful life of the roof. Owner is liable for any personal injury or damage occurring to the roof or other Association Property arising from any Solar Work.

(d) **Indemnification.** Owner consents and agrees to indemnify, protect, defend and hold the Association and all other Owners of Residential Units located within the Community,

and their respective successors and assigns, and its officers, directors, successors and assigns, the management company for the Association and the original developer of Community entirely free and harmless from and against any and all claims, costs, expenses, liabilities, actions and damages, including without limitation, attorneys' fees and costs and costs of enforcing this indemnification (collectively, "Claims") arising from or attributable to any acts or omissions of Owner, the Solar Contractor, or any of their respective heirs, personal representatives, successors, assigns, officers, agents, employees, subcontractors, or material suppliers arising out of or based upon Solar Work. This indemnity does not include any Claims to the extent they arise out of the gross negligence or willful misconduct of the Association or any other Owner.

(e) **Association Roof Work.** Owners of the Attached Condominiums agree that performance of the Solar Work shall not interfere with the Association's maintenance, repair or replacement of the roof on the Bungalow Condominium Building ("Roof Work"). If the Association has to perform Roof Work, Owner shall cooperate with the Association in the removal of such Solar Energy System in accordance with the Association Rules. Temporary removal of a Solar Energy System that is subject to the Solar Easement Agreement and Grant of Easement shall be governed by the provisions of the Solar Easement Agreement and Grant of Easement. The Association shall have the right to charge the individual Owner whose Solar Energy System is removed for the costs and expenses associated with such removal and replacement.

(f) **Interruption of Service.** Owner agrees that Association shall not be liable for any interruption in service or for interference with the Solar Energy System when the Association maintains, repairs or replaces the roof or other portions of the Bungalow Condominium Buildings.

### 6.3 **Airport Related Provisions.**

6.3.1 **Notice of Airport in Vicinity.** The Property is located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner should consider what airport annoyances, if any, are associated with the Property before such Owners completes its purchase and determine whether such annoyance are acceptable to such Owner.

6.3.2 **Prohibited Uses.** The following uses are prohibited within the Community pursuant to the Conditions of Approval.

(a) Any use which would direct a steady light or flashing light of red, white, green or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following take off or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

(b) Any use which would reflect sunlight towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

(c) Any use which would generate excessive smoke or water vapor, attract concentrations of birds, or otherwise affect air navigation in the area.

(d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

(e) Any hazards to flight.

### 6.4 **County Required Provision.**

6.4.1 Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply: The right to use recreational facilities and service areas shall be appurtenant to ownership of Condominiums within the development consistent with Ordinance No. 348 Section 8.9.5.C. Provisions shall be made for maintenance of the common and service areas by a corporation, partnership, trust or other legal entity having the right to assess the individual Owners consistent with Ordinance No. 348 Section 8.9.5.C.

6.4.2 For the purposes of this section, "property owners' association" shall refer to the Association, "subdivision map" shall refer to the Final Map, and "common areas" shall refer to the Association Property and Association Maintenance Areas. Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

(a) The property owners' association established herein shall manage the "common areas," more particularly described on Exhibit "D" attached hereto, and shall not sell or transfer the "common areas" or any part thereof, absent the prior written consent of the Planning Director of the County of Riverside or the County's successor-in-interest.

(b) The property owners' association shall have the right to assess the owners of each individual lot or unit for the reasonable cost of managing such "common area," and shall have the right to lien the property of any such owner who defaults in the payment of a management assessment. The property owners' association established herein shall regulate individual private lot development standards.

(c) The owners of each individual lot shall be responsible for maintaining all landscaping between the curb of the street and the proposed sidewalk and side yard landscaping between the curb of the street and proposed fencing, unless the landscaping is located within a separate common lot.

(d) 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.

(e) This Declaration shall not be terminated, "substantially" amended, or property de-annexed there from absent the prior written consent of the Planning Director of the County of Riverside or the County's successor-in-interest.

(f) A proposed amendment shall be considered "substantial" if it affects the extent, usage, or maintenance of the "common area" established pursuant to the Declaration.

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

6.5 **Exemption of Declarant.** The restrictions set forth in this Article shall not apply to Declarant so long as Declarant owns any portion of the Property or the Annexable Property, or so long as Declarant is exercising any of its rights under Article 9 or any other rights or powers or easements reserved to Declarant under this Declaration.

## ARTICLE 7 MAINTENANCE RESPONSIBILITIES

*This Article sets forth the maintenance responsibilities of the Association and the standards for that maintenance to ensure the overall quality and aesthetic appearance of the Community. This Article also sets forth the maintenance obligations of the Owners. It is important that the Association and each Owner understand the maintenance responsibilities set forth in this Article. Maintaining the Community will help to preserve and protect the value and aesthetic appearance of the Community. As the Annexable Property*

*is entitled and developed, additional maintenance obligations may be imposed upon the Owners and/or the Association. Additional maintenance obligations will be identified in a Supplementary Declaration.*

7.1 **Maintenance.** Unless the context otherwise requires, as used in this Article, "maintenance," "maintain" or "maintaining" means the operation, inspection, maintenance, repair, restoration and replacement of the areas and facilities designated for maintenance by the Association or Owner. To the extent repair, restoration and replacement is required as a result of damage or destruction under Article 11, then the repair and replacement shall be governed by the provisions of Article 11.

7.2 **Owner Maintenance Obligations.**

7.2.1 **Maintenance by Owners of Attached Condominiums.** Each Owner of an Attached Condominium shall maintain the areas designated for Owner maintenance on the Bungalow Condominium Building Maintenance Responsibility Chart. In addition, each Owner of an Attached Condominium shall maintain their Solar Energy System in accordance with the following requirements.

(a) **Solar Energy System.** Each owner of an Attached Residential Unit is shall perform the maintenance described in this Section 7.2.1.

(i) **Maintenance of Solar Energy Systems on Bungalow Condominium Buildings.** Each Owner is obligated to maintain or cause to be maintained the Solar Energy System servicing such Owner's Attached Condominium. Owners shall be responsible for any Solar Maintenance Work. Owner is responsible to keep the Solar Energy System in good working order and condition. Owner shall cause an approved service provider to inspect the Owner's Solar Energy System as reasonably necessary to ensure Owner's Solar Energy System is functioning properly and is not causing damage to any portion of the roof on the Bungalow Condominium Building. The Association shall have the right, but not the obligation, to oversee any Solar Maintenance Work to be completed on behalf of Owner to ensure that the roof of the Bungalow Condominium Building is not damaged. Owner takes full responsibility for and releases the Association from any liability for damage to persons or personal property within Owner's Property and the other Residential resulting from any Solar Maintenance Work including, without limitation, water intrusion through, around or under the Solar Energy System. In the event it is necessary for the Association to remove the Solar Energy System to perform roof repair, the Owner shall be responsible for removing the Solar Energy System from the roof and reinstalling such Solar Energy System at the Owner's sole cost and expense. To the extent the Owner does not cooperate to effectuate such removal with the time period required by the Association, the Association may perform such removal and charge the Owner the cost thereof as a Compliance Assessment.

(ii) **Failure to Maintain Solar Energy System.** If the Board determines that Owner has failed or neglected to adequately maintain or repair the Solar Energy System located on a Bungalow Condominium Building, upon seven (7) days prior written notice by Association to Owner, Association shall have the right to maintain or repair the Solar Energy System due to Owner's failure to maintain the Solar Energy System and to charge Owner for all expenses incurred, which may be added to Owner's account as a Compliance Assessment as provided in the Declaration. If the Association determines that a dangerous condition exists or there is a threat to the safety of community residents caused by the Solar Energy System, Association may remedy the condition without prior written notice to Owner.

7.2.2 **Maintenance by Owners of Detached Residential Units.** Each Owner of a Detached Residential Unit shall be responsible for the maintenance of the Improvements described below:

(a) **Maintenance of Detached Residential Units.** Subject to any provisions of the Governing Documents, each Owner shall be responsible for the maintenance of the Owner's Residence (including all portions of the Residence, Solar Energy System, yard area) and all Improvements situated within the Detached Residential Unit boundary in a good condition of maintenance, except for any portions of the Detached Residential Units designated as an Association Maintenance Area which Association Maintenance Area shall be maintained by the Association.

(b) **Landscaping.** Owners shall ensure all landscaping within their yard areas is healthy, free of weeds, disease and pests.

(c) **Exclusive Use Garage Areas.** Each Owner of a Detached Bungalow Unit is responsible to maintain the Exclusive Use Garage Area appurtenant to such Owner's Unit in a good condition of maintenance and repair.

(d) **Utility Facilities.** Each Owner shall be responsible for proper operation and maintenance of the Utility Facilities exclusively servicing the Owner's Detached Residential Unit and located within the Detached Residential Unit or Association Property, so long as those systems are used exclusively by such Owner and not in common; provided, however, that the Association shall have the right, but not the obligation, to undertake the maintenance of such Utility Facilities when located within Association Property and to levy a Compliance Assessment against the Owner.

(e) **Photocell Lighting.** Each Owner shall maintain the photocell controlled fixtures installed by Declarant that are located on certain Residences, including the garages, in working condition and shall replace as needed.

(f) **Mailbox Locks.** Each Owner is responsible for the maintenance of any locks on such Owner's mailbox.

(g) **Submeters.** Each Owner is responsible to maintain, repair and replace the submeter serving such Owner's Residential Unit in a good condition of maintenance and repair and in working order.

7.2.3 **Quality of Maintenance.** All maintenance required to be performed by an Owner pursuant to this Declaration shall be performed in such a manner as shall be deemed necessary in the judgment of the Association to preserve the attractive appearance thereof, and to protect the value thereof in compliance with all requirements of the Owner Maintenance Guide, the Maintenance Obligations and the Bungalow Condominium Building Maintenance Responsibility Chart. Any such maintenance of any of the foregoing which is visible from outside of a Residential Unit shall be consistent with the existing design, aesthetics and architecture of the Community.

7.2.4 **Compliance with Maintenance Obligations.** By accepting a deed to a Condominium, each Owner acknowledges and agrees that each Owner is required to comply with all of the Maintenance Obligations and schedules set forth in the Owner Maintenance Guide, and each Owner is further obligated to provide a copy of all documents describing Maintenance Obligations to any successor purchaser of such Owner's Condominium.

7.2.5 **Liability for Damage.** Notwithstanding any other provision of this Article to the contrary an Owner who by his or her negligent or willful act causes damage to the Association Property or Association Maintenance Areas shall bear the whole cost of repairing such damage.

7.2.6 **Non Compliance With Maintenance Obligations by an Owner.** If an Owner ("Non-Maintaining Owner") fails to perform its Maintenance Obligations as required under this Declaration, the Association, in addition to any other rights under this Declaration, shall have the right to cure such failure and the provisions set forth below shall apply.

(a) **Maintenance Deficiencies.** Upon a finding by the Association of a deficiency by a Non-Maintaining Owner in its Maintenance Obligations, the Association may provide to the Non-Maintaining Owner a written notice (the "**Notice of Deficiency**"), which shall briefly specify the conditions which the Association finds to be deficient, and request that such deficiency be cured within a specified reasonable period of time. If the Association determines that such deficiency continues to exist at the end of the period of time specified in the Notice of Deficiency, the Association may, at its option, either: (a) enter on and accomplish the maintenance of such portion of the Property that continues to be

deficient; (b) contract with another party to accomplish such maintenance; or (c) seek any other remedy available at law or in equity including, without limitation, specific performance or an injunction to enforce the Non-Maintaining Owner's Maintenance Obligations provided herein. Any of the foregoing remedies may be employed at the option of the Association, and the failure to employ any of such remedies upon any occurrence giving rise to such remedies shall not be a waiver of the right to employ such remedies in connection with any other occurrence.

(b) **Emergency Maintenance.** If the Association determines that such deficiency constitutes an Emergency which requires action prior to the expiration of any cure period, the Association may take the actions provided for in this Section without a Notice of Deficiency being given in advance of taking such action, provided that as soon as reasonably practicable after taking the Emergency action the Association gives a Notice of Deficiency (without providing a cure period) to the Non-Maintaining Owner.

(c) **Reimbursement of Association.** If the Association elects to perform a Non-Maintaining Owner's Maintenance Obligations, whether by use of its own employees and equipment or by contract with a third party, the entire cost of accomplishing such maintenance shall be an obligation of the applicable Non-Maintaining Owner and shall be reimbursed by the Non-Maintaining Owner to the Association with interest at the Applicable Rate within fifteen (15) days after receipt of a statement therefor. If such amounts are not reimbursed when due, the Association may levy a Compliance Assessment.

7.3 **Maintenance Obligations of the Association.** The Association shall maintain all areas designated for maintenance by the Association on the Bungalow Condominium Building Maintenance Responsibility Chart. The requirements set forth in this Section are in addition to, and supplement the Association's obligations set forth on the Bungalow Condominium Building Maintenance Responsibility Chart. The Association shall maintain the Association Property (including without limitation the portions designated for maintenance on the Bungalow Condominium Building Maintenance Responsibility Chart), the Private Streets, recreational areas and landscaped areas, and any Offsite Maintenance Areas and Association Maintenance Areas except for those areas designated as County Maintenance Areas, in a good condition of repair in accordance with the Maintenance Obligations and the Association Maintenance Guide. Additionally, the Association shall perform inspections for the applicable portions of the Condominium Buildings pursuant to California Civil Code Section 5551.

7.3.1 **County Agreements.** The Association shall perform all maintenance obligations set forth in the County Agreements.

7.3.2 **Association Maintenance Areas.** The Association shall maintain all Association Maintenance Areas in accordance with the Maintenance Obligations.

7.3.3 **Landscaping and Drainage Facilities.** The Association shall ensure all landscaping the Association is responsible to maintain is healthy, free of weeds, disease and pests. The Association shall be responsible for maintaining all Storm Drain and Water Quality Improvements designated for maintenance by the Association to maintain slope stability.

7.3.4 **Cluster Mailboxes.** The Association shall maintain the cluster mailboxes, except that the Owners shall maintain the locks as provided above.

7.3.5 **County Requirements Relating to Detention Basin.** Maintenance of the detention basin located within the Association Property shall at all times comply with the Community Entitlements and all Applicable Laws and governmental requirements. The detention basin shall not contain permanent surface water or attract wildlife. The detention basin shall be maintained to provide for a maximum 48-hour detention period following the design storm, and remain totally dry between rainfalls. Vegetation in and around the basins that would provide food or cover for birds would be incompatible with airport operations, and shall not be utilized in project landscaping. Trees shall be spaced so to prevent large expanses of contiguous canopy, when mature. Landscaping in and around the basin shall not include trees or shrubs that produce seeds, fruit, or berries. A notice sign shall be permanently affixed to the stormwater

basin(s) with the following language: "There is an airport nearby. This stormwater basin is designed to hold stormwater for only 48 hours and not attract birds. Proper maintenance is necessary to avoid bird strikes." The sign shall also include the contact information for the Association.

7.3.6 **Utility Facilities.** The Association shall maintain the Utility Facilities which service more than one Condominium, and the Association shall maintain all Utility Facilities (whether common or exclusively used by a Residential Unit) located within the Common Soffit/Chases of the Bungalow Condominium Buildings. As provided in Section 7.2 2(d) above, the Association shall have the right, but not the obligation, to undertake the maintenance of any Utility Facility which exclusively services a Condominium when located within Association Property and to levy a Compliance Assessment against the Owner. Such maintenance shall include, without limitation, maintenance of the private water and private sewer system servicing the Community.

7.3.7 **Additional Items.** The Association shall also be responsible for maintaining any Improvements designated in a Supplementary Declaration and/or that a majority of the Board or a majority of the Voting Power designates for maintenance by the Association.

7.3.8 **Association's Compliance with Maintenance Obligations.** The Association shall comply with the Maintenance Obligations for the Association Property, and the Association Maintenance Areas in accordance with the requirements of the Association Maintenance Guide and this Declaration. The Association's Maintenance Obligations in any Phase shall commence on the date Regular Assessments commence in such Phase. Until commencement of Regular Assessments in any Phase, the Association Property, Association Maintenance Areas and Offsite Maintenance Areas in such Phase shall be maintained by Declarant. Notwithstanding the foregoing, the contractors or subcontractors of Declarant may be contractually obligated to maintain the landscaping or other Improvements on the Association Property and Association Maintenance Areas pursuant to warranties or other existing contractual obligations to Declarant. The Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. Maintenance performed by such contractors or subcontractors of Declarant shall not serve to postpone the commencement of Regular Assessments pursuant to this Declaration, nor entitle an Owner to claim any offset or reduction in the amount of such Regular Assessments.

7.4 **Maintenance of Fences and Walls.** Except as otherwise provided in a Supplementary Declaration, fences and walls in the Community shall be maintained as set forth below. Notwithstanding anything to the contrary set forth herein, the walls and fences included in the County Maintenance Areas shall be maintained by the County and/or Valley-Wide Recreation and Park District.

7.4.1 **Fencing and Walls within Association Property.** The Association shall maintain, in a good condition of maintenance and repair, and replace if necessary any walls and any fencing and walls situated within Association Property which do not border a Condominium. Such maintenance shall include, without limitation, the prompt removal of all graffiti from walls or fences situated within Association Property which are the responsibility of the Association.

7.4.2 **Owner Maintenance Obligations.** Each Owner shall maintain, in a good condition of maintenance and repair, the fencing and walls within and bordering an Owner's Detached Condominium. Each such Owner shall also replace, as may be necessary, such fences and walls, with fences and walls approved in accordance with Article 8. Such maintenance shall include, without limitation, the prompt removal of all graffiti from walls or fences from such walls or fences.

7.4.3 **Interior Fencing or Walls Between Two Detached Residential Units.** For any fences or wall which separate yard areas of Detached Residential Units, each Owner of the Residential Unit shall have the obligation to maintain the interior of the fence or wall, and the Owners shall share, on an equitable basis, the cost of replacing such fence or wall. The Owner of each affected portion of the Property upon which a party wall or fence is located shall have a reciprocal non-exclusive easement over the Property immediately adjacent to the interior fence for the limited purpose of maintaining the party wall or fence.

7.4.4 **Fencing or Walls Between Detached Residential Units and Association Property.** If any fence or wall separates a Detached Residential Unit yard area from Association Property, the Owner shall maintain the surface of the fence or wall facing the Owner's Detached Residential Unit, and the Association shall maintain the surface of the fence or wall facing the Association Property. The Owner shall repair and replace the fence or wall.

7.4.5 **Liability for Damage.** Notwithstanding any other provision of this Section, an Owner who by his or her negligent or willful act causes a wall or fence within the Community to be damaged shall bear the whole cost of repairing such damage.

7.5 **Duty to Protect Against Mechanics' Liens.** In performing their Maintenance Obligations, and in connection with any other Improvements, the Association and any Owner (for the purposes of this Section, the "Contracting Party," as applicable) shall each promptly pay all costs, expenses, liabilities and liens arising out of or in any way connected with contracts for any service, labor or materials provided or supplied to the Property or the construction of any Improvements authorized or undertaken by the Contracting Party. A Contracting Party shall not cause or permit any mechanic's lien to be filed against the Community for labor or materials alleged to have been furnished or delivered to the Community by the Contracting Party. If any Contracting Party causes a lien to be filed, such Contracting Party shall: (a) immediately either cause the lien to be discharged within ten (10) days after notice to such responsible party by the Contracting Party, or post a bond which protects the title of the affected Contracting Party to their Property; and (b) indemnify, protect, defend and hold harmless the other Owners and/or the Association, as applicable, from any loss, damage, liability, expense or claims whatsoever by reason of any expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and costs of defending against the foregoing claims by the Association, another Owner and any costs of enforcing this indemnity prior to the defense thereof by the Contracting Party.

7.6 **Liability to Declarant.** So long as Declarant has any obligation or liability under any permits issued by a Governmental Agency, if an Owner or the Association is not in compliance with the provisions of this Article and as a result, Declarant may incur any liability, Declarant shall have the right but not the obligation to enter upon the applicable portion of the Community to correct such violation. If the Association or an Owner violates the requirements of this Article, the Association or Owner shall indemnify, protect, defend and hold Declarant, and its officers, directors, successors and assigns entirely free and harmless from and against any liabilities, penalties, costs, expenses and actions, including, without limitation, attorneys' fees and costs arising from or attributed to a violation of the provisions of this Article and shall, within fifteen (15) days after request from Declarant, reimburse Declarant for any costs and expenses it incurred as a result of a violation of this Article by the Association or Owner.

7.7 **Inspection of the Community.** The Association shall regularly inspect all major components of the Association Property and Association Maintenance Areas at least once each year. One of the primary purposes of the inspection shall be to determine how to extend the life of Association Property and Association Maintenance Areas Improvements and to prevent damage to such Improvements resulting from the Association's neglect or the failure to properly and adequately maintain. The Association shall keep appropriate records to document that it has performed all inspections and maintained all Improvements in compliance with the Association Maintenance Guide and this Declaration. For a period of ten (10) years after the date of the last close of escrow of a Condominium in the Community, Declarant shall have the right, but not the obligation, to inspect the Association Property and Association Maintenance Areas on an periodic basis, at least once each year, to determine whether any repair to or routine maintenance of the Association Property or Association Maintenance Areas is needed. Such inspection by Declarant shall be in addition to, not in place of, the inspections required of the Association in this Declaration. Nothing herein shall create an obligation on Declarant to inspect the Association Property or Association Maintenance Areas, to repair or maintain any portion thereof or any Improvements there within, or to cure any failure of the Association to perform its Maintenance Obligations. The Association shall also perform inspections for the applicable portions of the Condominium Buildings pursuant to California Civil Code Section 5551.

7.7.1 **Maintenance Guide Compliance.** The Association has the duty and obligation, along with the attendant rights and power, to carry out Declarant's and its consultant(s)' maintenance of the Association Property and any Offsite Maintenance Areas in perpetuity as set forth in the Maintenance Guide and in accordance with the requirements or recommendations of Declarant and its consultant(s). The Board shall regularly determine whether the recommended inspections and maintenance activities have been followed, and, if any such recommendations have not been followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Association Property and any Offsite Maintenance Areas. The Board shall keep a record of such determinations in the Board's minutes. The Board shall review the Association Maintenance Guide for any needed appropriate revisions at appropriate intervals, but in no event less frequently than annually, and shall make appropriate recommendations to Declarant and Declarant's consultant(s) for revisions to the Association Maintenance Guide within thirty (30) days of its determination that revisions to the Association Maintenance Guide should be recommended to Declarant.

7.7.2 **Declarant's Inspection Rights.** For a period of ten (10) years after the date of the last close of escrow of a Condominium in the Community, Declarant shall have the right, but not the obligation, to inspect the Association Property and Association Maintenance Areas on a periodic basis, at least once each year, to determine whether any repair to or routine maintenance of the Association Property or Association Maintenance Areas is needed. Such inspection by Declarant shall be in addition to, not in place of, the inspections required of the Association in this Declaration. Nothing herein shall create an obligation on Declarant to inspect the Association Property or Association Maintenance Areas, to repair or maintain any portion thereof or any Improvements there within, or to cure any failure of the Association to perform its Maintenance Obligations.

7.8 **Future Construction.** Nothing in this Declaration shall limit the right of Declarant to complete construction of Improvements to the Association Property and to Condominiums owned by Declarant or to alter them or to construct additional Improvements as Declarant deems advisable before completion and sale of the entire Community.

## ARTICLE 8 DESIGN REVIEW

*To help maintain the architectural integrity and to project and preserve the value of the Community, the Association is charged with the responsibility of architectural review over the Community. The architectural review and approval process is intended to help to protect the interests of the Owners in the Community. Design review may be performed by either the Board, the Design Review Committee or an outside consultant. The architectural review process will be governed by both the provisions of this Declaration and the requirements set forth in Design Guidelines.*

8.1 **Non-Applicability to Declarant.** The provisions of this Article shall not apply to any Improvements installed by Declarant or repaired by Declarant pursuant to the Limited Warranty, Civil Code Section 895, *et seq.*, and neither the Board nor the Design Review Committee shall have any rights of review or approval with respect thereto.

8.2 **Scope of Review.** No Improvements of any kind whatsoever shall be removed, commenced, erected, placed or altered upon or around any Residential Unit or any Exclusive Use Easement Area of any kind until the Owner has submitted complete plans and specifications showing the nature, kind, shape, height and materials, including the color and any other requirements set forth in the Design Guidelines ("Plans and Specifications"), and such Plans and Specifications have been approved in writing as to harmony of external design and location to surrounding structures and topography by the Board. In addition, the grade, level or drainage characteristics of the Residential Unit, Exclusive Use Easement Area or any portion thereof shall not be altered without the prior written consent of the Board. An Owner shall also be obligated to obtain any approvals required by the County or other Governmental Agencies.

8.3 **Design Guidelines.** The Board may, from time to time and in accordance with California Civil Code Section 4355, *et seq.*, adopt, amend and repeal, rules and regulations to be known as "Design Guidelines." The Design Guidelines shall interpret and implement the provisions hereof by setting forth the standards and procedures for Board review and guidelines for architectural design of Improvements, placement of Improvements, color schemes, exterior finishes and materials and similar features which are recommended for use in the Community; provided, however, that the Design Guidelines shall not be less restrictive than the standards required by this Declaration. The Design Guidelines shall be in compliance with all Applicable Laws including, without limitation, California Civil Code Sections 4720 and 4735.

8.4 **Approval of Plans and Specifications.** Prior to the installation of any Improvements, or taking other action that requires the prior approval of the Board, the Owner ("Applicant") shall submit a complete set of Plans and Specifications and any review fee required pursuant to the Design Guidelines and any other materials required by the Association in accordance with the Design Guidelines. Applicant shall include evidence satisfactory to the Board that the proposed Improvements (1) are acceptable under the terms of this Declaration and the Design Guidelines, and (2) comply with all Applicable Laws and, as applicable building code requirements ("Application").

8.4.1 **Time Periods for Review.** Within forty-five (45) days after an Owner's proper application for approval, the Board shall consider and act upon such request. In the event the Board fails to approve or disapprove of the Application within forty-five (45) days after all documents and information requested by the Board have been received by it, the Owner requesting said approval may submit a written notice to the Board advising the same of its failure to act. If the Board fails to approve or disapprove any such Application within fifteen (15) days after the receipt of said notice from such Owner, then said Application shall be deemed approved, provided that any Improvements conform to all conditions and restrictions contained in this Article and are aesthetically harmonious with similar structures erected within the Community.

8.4.2 **Reconsideration.** If a Design Review Committee is appointed and the Design Review Committee disapproves any Plans and Specifications submitted by an Owner pursuant to this Article, the Applicant may submit a written request for reconsideration to the Board. The Board must receive the written request not more than thirty (30) days following the final decision of the Design Review Committee. Within thirty (30) days following receipt of the written request for reconsideration, the Board shall render its written decision in accordance with California Civil Code Section 4765. The decision of the Board shall be binding and final.

8.4.3 **Effectiveness of Final Approval.** The approval granted as provided above shall be effective for a period of twelve (12) months from the date of issuance. In the event construction does not commence within such twelve (12) month period, the approval shall be deemed to have expired and a new approval pursuant to the provisions of this Article must be obtained.

8.5 **Approval of Solar Energy Systems.** The installation by an Owner other than Declarant of a Solar Energy System or upgrade to a Solar Energy System shall require the prior approval of the Design Review Committee. Reasonable restrictions on the installation of a Solar Energy System may be applied, so long as the restrictions do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance. A Solar Energy System shall be appropriately certified and shall comply with the requirements for such systems as set forth in the Solar Rights Act. The criteria for approval of the installation of a Solar Energy System may implement relevant provisions of the Solar Rights Act and the Solar Shade Control Act and the provisions of this Section 8.5, but shall not otherwise be any more restrictive or subject to more scrutiny than those for any other Improvement. To the extent the Board approves the installation of a Solar Energy System for a Residential Unit, the Board shall promulgate rules and regulations relating to all aspects to the Solar Energy System which impact the Bungalow Condominium Building and Attached Residential Units within the Bungalow Condominium Building upon which the Solar Energy System will be placed, including but not limited to the placement, repair, replacement of the Solar Energy System, requirements for contractors, insurance and indemnities; provided, however, any restrictions, Design Guidelines or Association Rules applied to Solar Energy Systems must comply with the Solar Rights Act and the Solar Shade Control Act. The application for

approval shall be processed and approved by the Design Review Committee in the same manner as an application for approval of any other Improvement, and shall not be willfully avoided or delayed. The Design Review Committee shall have no obligation to determine compliance with the Solar Rights Act or Solar Shade Control Act or to consider the impact of landscape, present or future, on Residential Units or Exclusive Use Easement Areas adjacent to a Solar Energy System and shall have no liability to any person for not considering any potential landscape impacts or compliance with the Solar Shade Control Act or compliance with the Solar Rights Act. Notwithstanding the preceding sentence, until all Annexable Property has been annexed to the Community and all Condominiums in the Community have been conveyed to Owners other than Declarant, the Design Review Committee shall consider the Declarant's then most current plan of development for any portion of the Community or Annexable Property that will or is likely to affect the efficiency or performance of a Solar Energy System. Declarant shall have no liability to any Owner of a Solar Energy System for any residential structure(s) constructed by Declarant in the Community, regardless of when the residential structure(s) is constructed.

8.6 **Approval of Modifications to Accommodate Disabled Owners.** Any Owner proposing to install Improvements or make modifications to such Owner's Condominium or the Association Property leading to such Owner's Condominium to facilitate access for persons who are blind, visually handicapped, deaf or partially disabled, or to other conditions which could be hazardous to such persons shall be subject to the same review and approval requirements as any Owner proposing to construct Improvements or other actions requiring approval of the Board pursuant to this Declaration; provided, however, that the Board shall not deny approval of the proposed modifications without good cause.

8.7 **Compliance With California Civil Code Section 4765.** In approving Plans and Specifications submitted to it pursuant to this Article, the Board shall comply with the requirements of California Civil Code Section 4765.

8.8 **Inspection and Correction of Work.** Inspection of work and correction of defects therein shall proceed as set forth below.

8.8.1 **Right of Inspection During Course of Construction.** The Board or its duly authorized representative may enter into any Condominium, from time to time, as provided below during the course of construction or installation of any Improvements for the purpose of inspecting the construction or installation. If the Board determines that such construction and/or installation is not being done in substantial compliance with the approved Plans and Specifications, it shall notify the Owner of such noncompliance. The Board may not enter into a Residential Unit without obtaining the prior permission of the Owner or Occupant; provided, however, that such prior permission shall not be unreasonably withheld and shall be given for entry by the Board during the daylight hours within forty-eight (48) hours of the request for entry.

8.8.2 **Notice of Completion.** Upon completion of any construction or reconstruction or the alteration or refinishing of any Improvements, or upon the completion of any other work for which approved Plans and Specifications are required under this Article, the Owner shall give written notice of completion thereof to the Board.

8.8.3 **Inspection.** Within thirty (30) days after receiving notice of completion, the Board, or its duly authorized representative, shall have the right to enter into a Condominium (but as to the Detached Residential Units, not the Residence situated thereon) as provided in Section 8.8.1, to inspect the Improvements to determine whether they were constructed or installed in substantial compliance with the approved Plans and Specifications. If the Board finds that such construction or installation was not done in substantial compliance with the approved Plans and Specifications, it shall notify the Owner in writing of such non-compliance within such thirty (30) day period, specifying particulars of non-compliance, and shall require the Owner to remedy such non-compliance.

8.8.4 **Non-Compliance.** If an Owner fails to remedy such non-compliance within thirty (30) days after the date of notification of non-compliance, the Board, after affording the Owner Notice and Hearing, shall determine whether there is a non-compliance, and if so, the nature thereof and the estimated

cost of correcting or removing the same. If non-compliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than thirty (30) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the Board in its discretion may grant, the Board, at its option, may either remove the non-complying Improvement or remedy the non-compliance, and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Compliance Assessment against such Owner for reimbursement.

8.8.5 **Failure to Notify**. If for any reason the Board fails to notify the Owner of any non-compliance within sixty (60) days after receipt of the notice of completion from the Owner, the Improvements shall be deemed to be in accordance with said approved Plans and Specifications.

8.8.6 **Governmental Regulations**. If in the event there is any conflict between the requirements or actions of the Board and the Applicable Laws relating to the Property, to the extent that such Applicable Laws are more restrictive, the Applicable Laws shall control, and the Board shall modify its requirements or actions to conform to the Applicable Laws; provided, however, that if the Applicable Laws are less restrictive, the provisions of this Declaration shall nonetheless apply. The application to and the review and approval by the Board of any Plans and Specifications or other submittals by an Owner shall in no way be deemed to be satisfaction or compliance with any building permit process or other Applicable Laws or public utility requirements (hereinafter collectively referred to as "**Additional Requirements**") the responsibility for which shall lie solely with the Owner; provided, however, if the Additional Requirements are less restrictive than the provisions of this Declaration, then the other Governing Documents shall nonetheless apply.

8.9 **Diligence in Construction**. Upon approval by the Board or Design Review Committee of any Plans and Specifications, the Owner shall promptly commence construction of the Improvements and diligently pursue the same to completion.

8.10 **Fee for Review and Inspection of Improvements**. The Board shall have the right to establish a fee for the review and approval of Plans and Specifications and inspection of Improvements that must be submitted to the Board pursuant to the provisions of this Article. The Board shall have the right to hire an engineer or other consultant, the opinion of which the Board deems necessary in connection with its review of any plans submitted by any Owner, and such Owner shall be liable for payment of such engineer's and/or consultant's fee.

8.11 **Interpretation**. All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Board, and its decision shall be final, binding and conclusive on all of the parties affected.

8.12 **Waiver**. The approval by the Board of any Plans and Specifications for any work done or proposed, or for any other matter requiring the approval of the Board under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar Plans and Specifications or matter subsequently submitted for approval.

8.13 **Estoppel Certificate**. Within thirty (30) days after written demand is delivered to the Board by any Owner and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the Board shall deliver an estoppel certificate executed by any member of the Board (with respect to any Condominium of said Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner comply with this Declaration, or (b) such Improvements or work do not so comply, in which event the estoppel certificate shall also identify the non-complying Improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Owner or from anyone deriving any interest in said Condominium through the Owner shall be entitled to rely on said estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant and all Owners and such Persons deriving any interest through them.

8.14 **Liability.** Neither the Board, any Design Review Committee, nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any Plans and Specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved Plans and Specifications; (c) damage to the Community or any property within the Community; or (d) the execution and filing of an estoppel certificate pursuant to Section 8.13, whether or not the facts therein are correct; provided, however, that the Board member has acted in good faith on the basis of such information as may be possessed by him or her. Without in any way limiting the generality of the foregoing, the Board, or any member thereof, may, but is not required to, consult with or hear the views of any Owner with respect to any Plans and Specifications or any other proposal submitted to the Board.

8.15 **Variances.** The Board may authorize variances from compliance with any of the architectural provisions of this Declaration, including, without limitation, restrictions upon height, size, floor area or placement of Improvements or other similar restrictions, when circumstances such as topography, natural obstructions, aesthetic or environmental considerations may require. Such variances may be evidenced in writing and must be signed by at least two (2) officers of the Board and shall become effective upon execution. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Condominium and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all Applicable Laws affecting its use of the Condominium, including, without limitation, zoning ordinances and lot setback lines or requirements imposed by the County or any other Governmental Agencies.

8.16 **Appointment of Design Review Committee.** The Board shall have the right to delegate its review and approval rights under this Article to a Design Review Committee or an outside consultant. If the Board so elects, the Design Review Committee shall consist of three (3) members. One (1) alternate member may be designated by the Board to act as a substitute on the Design Review Committee. In the event the Board appoints a Design Review Committee, all rights hereunder shall apply to the Design Review Committee and all references to the Board shall be deemed to refer to the Design Review Committee. Members appointed to the Design Review Committee by Declarant need not be Members of the Association. Exercise of the right of appointment and removal as set forth herein shall be evidenced by the specification in the minutes of the Association of each new Design Review Committee member or alternate member appointed and each member or alternate replaced or removed from the Design Review Committee.

8.17 **Compensation.** The members of any Design Review Committee appointed by the Board shall receive no compensation for services rendered other than reimbursement by the Association for expenses incurred by them in the performance of their duties hereunder, unless the Association retains a professional architect, engineer or designer as a member of the Design Review Committee for the purpose of providing professional services, in which event reasonable compensation for such member shall be approved by the Board.

## ARTICLE 9 DEVELOPMENT RIGHTS

*Given the size of the Community, development will extend over a long period of time. Declarant requires certain rights to enable Declarant to complete development, marketing and construction for the benefit of all of the Community. This Article describes some of those rights which are in addition to other rights reserved to Declarant under this Declaration and the other Governing Documents.*

9.1 **Limitations of Restrictions.** Declarant is undertaking the work of developing Condominiums and other Improvements within the Community. The completion of the development work and the marketing and sale, rental and other disposition of the Condominiums are essential to the establishment and marketing of the Property as a first class Condominium community. In order that the

work may be completed nothing in this Declaration shall be interpreted to deny Declarant the rights set forth in this Article.

9.1.1 **Access.** Declarant and its agents, contractors and subcontractors shall have the right to obtain reasonable access over and across the Association Property to do within any Condominium owned by it whatever is reasonably necessary or advisable in connection with the completion of the Community and the development, marketing and maintenance thereof, and Declarant and its contractors and subcontractors shall have such rights of access over and across the Association Property for purposes of satisfying any obligation of Declarant that Declarant has secured by a bond in favor of any Governmental Agency.

9.1.2 **Construct Improvements.** Declarant, its agents, contractors and subcontractors, shall have the right to erect, construct and maintain on the Association Property or within any Condominium owned by Declarant such structures or Improvements, including, without limitation, sales offices and signs, as may be reasonably necessary for the conduct of its business to complete the work, establish the Community as a residential community and dispose of the Community or other communities or projects owned by Declarant by sale, lease or otherwise, as determined by Declarant in sole discretion and to perform or complete any work to improvements required for Declarant to obtain a release of any bonds posted by Declarant in favor of any Governmental Agencies.

9.1.3 **Grant Easements.** Declarant shall have the right to establish and/or grant such easements and rights of way on, over, under or across all or any part of the Association Property to or for the benefit of any Governmental Agency or public organization, or any public utility entity or cable television provider, for the purpose of constructing, erecting, operating and maintaining Improvements thereon, therein or thereunder at that time or at any time in the future. The Governmental Agencies furthermore are granted an easement across the Association Property for ingress and egress for use by emergency vehicles of the Governmental Agencies.

9.1.4 **Use of Facilities.** Declarant shall have the right to use any recreational and other facilities within the Association Property, promotional and other marketing activities, and events and to reasonably display or show any recreational facilities to prospective purchasers.

9.2 **Size and Appearance of Community.** Declarant shall not be prevented from increasing or decreasing the number of Condominiums that may be annexed to the Community or from changing the exterior appearance of Association Property structures, the landscaping or any other matter directly or indirectly connected with the Community in any manner deemed desirable by Declarant, provided Declarant obtains governmental consents required by Applicable Laws. The nature, design, quality and quantity of all Improvements to the Association Property and the Association Maintenance Areas shall be determined by Declarant, in its sole discretion.

9.3 **Marketing Rights.** Declarant shall have the right to:

9.3.1 maintain structures (including model homes), signs, billboards, sales offices, storage areas and related facilities on any portion of the Property as are necessary or reasonable, in the opinion of Declarant, or with the prior approval of Declarant for the sale, leasing or disposition of any Condominiums;

9.3.2 use such portions of the Condominiums as may be necessary or advisable to complete the sale or leasing of the Condominiums;

9.3.3 maintain construction, leasing and/or sales offices within the Property;

9.3.4 place signs, flags, banners, balloons and other promotional advertising materials on the Bungalow Condominium Buildings and other portions of the Property during the marketing and leasing of Condominiums or any grand opening;

9.3.5 provide ongoing maintenance, operation, service, construction, punch out, and repairs to any portion of the Condominiums and other Improvements within any portion of the Property;

9.3.6 change the appearance of portions or all of the Property, or change the development plan if Declarant complies with Applicable Laws;

9.3.7 enter within or upon the Property in exercising the inspection and cure rights granted to Declarant under any other warranty rights;

9.3.8 make reasonable use of the Association Property and facilities for the sale of any Condominium; and

9.3.9 conduct their business of disposing of the Condominiums by sale, lease or otherwise.

Any easement rights reserved by Declarant for marketing shall continue until Declarant conveyed all of the Condominiums within the Property and Annexable Property to Owners under a Public Report, and any easement rights reserved by Declarant in favor of Declarant for any construction, inspection or cure purposes shall be for a term and duration co-extensive with Declarant's, interest in any portion of the Property or Annexable Property.

9.4 **Title Rights**. This Declaration shall not be construed to constitute a limitation on Declarant's title rights to the Annexable Property prior to its Annexation, nor shall it impose any obligation on Declarant or any other Person to improve, develop or annex any portion of the Annexable Property. The rights of Declarant under this Declaration may be assigned to any successor(s) by an express assignment in a recorded instrument, including without limitation, a deed, option or lease. This Declaration shall not be construed to limit the right of Declarant at any time prior to such an assignment to establish additional licenses, reservations and rights-of-way to itself, to utility companies, to Governmental Agencies, or to others as may be reasonably necessary to the proper development and disposal of property owned by Declarant.

9.5 **Declarant Representative**. Until Declarant no longer owns any Condominium or Annexable Property, the Association shall provide Declarant with written notice of all meetings of the Board and Declarant shall be entitled, without obligation, to have a representative present at all such Board meetings ("Declarant's Representative"), excluding any meetings while the Board is in executive session. The Declarant's Representative shall be in addition to any member which Declarant may have on the Board and, if Declarant elects to have an additional representative, Declarant's Representative may be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

9.6 **Declarant Exemptions**. None of the covenants, restrictions and limitations set forth in Article 6, Article 8, or elsewhere in this Declaration shall be applied to the development, construction, marketing or sales or leasing activities of Declarant or construed in such a manner as to prevent or limit development, construction, marketing, leasing or sales activities by Declarant. This Section shall not be amended or removed without Declarant's prior written consent so long as Declarant owns any portion of the Property or Annexable Property. Declarant and any Person to whom Declarant has assigned all or a portion of its rights as Declarant under this Declaration is exempt from the restrictions established under Article 6 and Article 8.

9.7 **Supplementary Declarations**. So long as Declarant owns any portion of the Property or Annexable Property, Supplementary Declarations may be recorded by Declarant without the consent of any Owner, the Association or Mortgagee, for any of the purposes for which a Supplementary Declaration may be recorded. In addition, Supplementary Declarations may be recorded by the Association for any of the purposes for which Supplementary Declarations may be recorded: (a) after Declarant no longer owns any portion of the Property or Annexable Property; or (b) so long as Declarant owns any portion of the

Property or Annexable Property with the consent of Declarant. Supplementary Declarations may also be recorded to impose additional covenants and restrictions on the Owners with the prior consent of the applicable Owners, upon whose portion of the Property the covenants and restrictions are being imposed unless such restrictions are imposed pursuant to any of the other purposes for which a Supplementary Declaration may be recorded as set forth herein or in the other Governing Documents.

9.8 **Alterations to Map.** At any time within three (3) years from the date that the first Condominium in a Phase is conveyed to an Owner other than Declarant, the boundaries of any Condominium or Association Property in that Phase may be altered by a lot line adjustment or other change reflected on a subsequently recorded Record of Survey, parcel map, final map or amended final map, provided that the altered boundaries are approved by Declarant and all owners of the Property involved in the boundary adjustment (the Board, with respect to property owned by the Association). Any alteration approved by Declarant may make minor changes to the number of Condominiums in the Community. An alteration shall be effective upon recordation of the Record of Survey or map and, upon such recordation, the boundaries of the altered Association Property shall be altered for purposes of this Declaration to conform to the boundaries as shown on the Record of Survey or map.

## ARTICLE 10 INSURANCE

### 10.1 **Association's Insurance Obligations.**

10.1.1 **Liability Insurance.** The Association shall obtain and maintain liability insurance providing coverage at least as broad as a current Insurance Services Office, Inc. ("ISO") commercial general liability insurance form or its equivalent (including coverage for medical payments and coverage for owned and non-owned automobiles, if applicable), insuring the Association, Declarant (as long as Declarant is the Owner of any Property or the Annexable Property and/or has any rights under Article 9) and the Owners against liability arising from the ownership, operation, maintenance and use of the Association Property by the Association and the performance by the Association of its duties under this Declaration. Coverage for such matters shall be primary to any coverage provided by any other liability insurance policy maintained by such insureds. The limits of such insurance shall not be less than Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate and shall at all times meet or exceed the minimum requirements of California Civil Code Section 5805. Such insurance shall include coverage against water damage liability, a broad form named insured endorsement, if reasonably available as determined by the Board, and may include coverage against any other liability customarily covered with respect to properties similar in construction, location and use, all as may be determined by the Board. Such policy shall include, if reasonably available as determined by the Board, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

10.1.2 **Property Insurance.** The Association shall obtain and maintain property insurance for the risks covered by, and providing coverage at least as broad as, a current ISO "special form" policy or its equivalent, insuring (1) all Association Property (including without limitation the Exclusive Use Garage Areas except for those portions required to be insured by the Owners pursuant to Section 10.2.1 and 10.3), including fixtures and building service equipment, (2) all personal property owned or maintained by the Association, and (3) any items required to be included under Subsection (b) below (collectively, the "Association Insured Property"). Such insurance shall be maintained in the amount of the maximum insurable replacement value of the property, as determined annually by the Board. Such coverage may exclude land, foundations, excavations, and other items typically excluded from property insurance coverage on properties similar in construction, location and use.

(a) **Course of Construction.** Whenever any Improvements or alterations to the Association Insured Property are in the course of construction, the insurance required under this Section shall be carried by the Association in builder's risk form written on a completed value basis, insuring against loss to the extent of at least the full replacement value of the Association Insured Property (excluding foundations and footings, except for earthquake coverage) of the Property being covered.

(b) **Bungalow Condominium Buildings.** The property insurance maintained by the Association shall also cover any portions of the Attached Residential Units and Exclusive Use Garage Areas not required to be insured by the Owners pursuant to Section 10.2.1 and 10.3, including, without limitation, the following items and components installed by Declarant within the Attached Residential Units at the time of original construction of the Attached Residential Units (and any equivalent replacements thereof): fixtures, interior walls and doors, ceiling, floor and wall surface materials (e.g. paint, wallpaper, mirrors, carpets, and hardwood floors); cabinets, built-in appliances; heating and air conditioning systems, and water heaters.

(c) **Detached Residential Units.** The Association shall have no obligation to maintain property insurance on any portion or Improvements located within the Detached Residential Units.

(d) **Payment of Insurance Proceeds.** Subject to the rights of Mortgagees, the proceeds from such property insurance shall be payable to the Association or an insurance trustee ("Trustee") to be held in trust for the benefit of the Association and the Owners, Mortgagees and others, as their respective interests shall appear. The Trustee shall be a commercial bank or other financial institution with trust powers in the County that agrees in writing to accept such trust.

(e) **Earthquake Insurance.** ALL PARTIES ACKNOWLEDGE THAT EARTHQUAKE INSURANCE IS NOT INCLUDED IN THE BUDGET AND IS NOT BEING OBTAINED BY DECLARANT FOR THE BENEFIT OF THE OWNERS OR THE ASSOCIATION. NEITHER DECLARANT NOR THE ASSOCIATION IS OBLIGATED TO MAINTAIN EARTHQUAKE INSURANCE ON THE ASSOCIATION PROPERTY OR ANY PORTION THEREOF. Declarant or any Owner (and/or their respective lenders) may maintain earthquake insurance for their own benefit, but the premiums therefor may not be included by Declarant or the Association as Common Expenses. Notwithstanding the foregoing, at such time as the Board is no longer controlled by Declarant, the Association may, in its discretion, (but without any obligation to do so) obtain earthquake insurance from time to time, on those portions of the Community that are to be insured by the Association as provided in this Declaration, and if so obtained, the premiums for such insurance may be included in the Common Expenses. All parties acknowledge that earthquake insurance is typically very expensive and if purchased by the Association a material increase in Assessments may be required to cover the additional cost of such insurance.

(f) **Primary.** With respect to Association Insured Property, the property insurance maintained by the Association shall be primary and noncontributing with any other property insurance maintained by an Owner covering the same loss.

(g) **Endorsements.** The property insurance policy shall contain, to the extent available on commercially reasonable terms as may be determined by the Board, the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent applicable), inflation guard, ordinance or law, replacement cost and such other endorsements as may customarily be obtained with respect to properties similar in construction, location and use, as may be determined by the Board.

(h) **Adjustment of Losses.** The Association shall timely file, pursue and complete the adjustment of all claims arising under the property insurance policies carried by the Association. The Board is appointed attorney-in-fact by each Owner (except for the Secretary, U.S. Department of Veterans Affairs), to negotiate and agree on the value and extent of any property damage under any policy carried by the Association. The Board is granted full right and authority to compromise and settle any property damage claim under any policy of property insurance carried by the Association or enforce any such claim by legal action or otherwise and to execute releases in favor of any insurer with respect to any such claim.

**10.1.3 Waiver of Claims and Subrogation.** The Association waives all claims against the Owners for any damage to the Association Insured Property (including without limitation, any loss of use of such property), except that the Association may claim against an Owner for property damage caused by that Owner to the extent that either (i) the peril causing such damage is not covered by the property insurance required by this Declaration to be maintained by the Association or the property insurance

actually maintained by the Association (whichever is greater), provided that such Owner's liability for such uninsured damage is limited to the amount of liability insurance required to be maintained by such Owner pursuant to this Declaration; (ii) the peril causing such damage is covered by the Association's property insurance, but the damage is within the amount of the deductible or self-insured retention, provided that such Owner's liability for such damage is limited to the amount of liability insurance required to be maintained by such Owner pursuant to this Declaration; or (iii) such damage is caused by the gross negligence or willful misconduct of that Owner. Any property insurance policy obtained by the Association must contain a waiver of subrogation rights by the insurer consistent with this Section; provided, however, that a failure or inability of the Association to obtain such a waiver from an insurer shall not defeat or impair the waivers between the Association and the Owners as set forth herein. If an Owner is liable for damage under this Section, the Association may, after Notice and Hearing, levy a Compliance Assessment amount of damage for which the Owner is responsible, and the increase, if any, in insurance premiums directly attributable to such damage.

The waivers of claims and subrogation set forth in this Subsection apply only in favor of the Owners and do not limit or waive, release or discharge any claims that the Association (or its insurers) may have against any third party, including without limitation any contractor, service provider, agent, or Invitee, provided that such waivers shall also apply in favor of an Owner's tenant occupying a Residential Unit under a written lease agreement if and to the extent that the Owner has similarly agreed in such lease agreement to a waiver of claims and subrogation against such tenant.

**10.1.4 General Policy Requirements.** All insurance policies the Association is required to obtain pursuant to this Article shall be placed and maintained with companies rated at least "A-/VII" by A.M. Best Company, Inc., and otherwise reasonably satisfactory to the Association. If an A.M. Best Company, Inc. rating is not available, a comparable rating service may be used. Such insurance policies may have reasonable deductible amounts comparable to those customarily maintained with respect to properties similar in construction, location and use, as may be determined by the Board for projects approved by FNMA, the maximum deductible may not exceed the maximum deductible, if any, established by FNMA. The coverage amounts required for such insurance policies may be satisfied by any combination of primary and excess policies that collectively serve to satisfy the requirements of this Article.

**10.1.5 Fidelity Bond.** The Association shall maintain a commercial crime policy or a fidelity bond in an amount equal to the greater of (a) the estimated maximum amount of funds, including reserves, expected to be regularly held by or on behalf of the Association or a managing agent at any given time during the term of the fidelity bond; and (b) three (3) months' aggregate of the Regular Assessments on all Condominiums plus any reserve funds. If the Association maintains a bond, the bond shall name the Association as obligee and if the Association maintains insurance, the policy shall name the Association as the insured and shall insure against loss by reason of the acts of the employees of the Association, and any managing agent and its employees, whether or not such persons are compensated for their services.

**10.1.6 Worker's Compensation Insurance.** The Association shall maintain worker's compensation insurance to the extent necessary to comply with all Applicable Laws.

**10.1.7 Directors and Officers Insurance.** The Association shall maintain a policy insuring the Association's officers and directors against liability for their acts or omissions while acting in their capacity as officers and directors of the Association. The limits of such insurance shall be not less than One Million Dollars (\$1,000,000) and shall at all times meet or exceed the minimum requirements of Section 5800 of the California Civil Code.

**10.1.8 Copies of Policies.** Copies of all insurance policies of the Association shall be retained by the Association and available for inspection by Owners and First Mortgagees at reasonable times. All such insurance policies shall provide that they shall not be cancelable or substantially modified by the insurer without first giving at least thirty (30) days prior notice in writing to the Association, Owners and First Mortgagees, except that ten (10) days prior written notice shall be required if the cancellation is for non-payment of premiums. In addition to the foregoing, the Association shall provide to the Owners

such information regarding the insurance of the Association as may be required by Applicable Law or under the Bylaws.

10.1.9 **Compliance with Federal Regulations**. Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such insurance and a fidelity bond meeting the minimum insurance and fidelity bond requirements for condominium projects established by FNMA, FHLMC, GNMA, VA, and FHA, or any successor to those entities, so long as any of the above is a Mortgagee or an Owner of a Condominium, except to the extent such coverage is not available or has been waived in writing by the FNMA, FHLMC, GNMA, VA and FHA, as applicable. If the FNMA and FHLMC requirements conflict, the more stringent requirements shall be met.

10.2 **Attached Condominium Owners' Insurance Obligations**. The insurance limits described in Section 10.2.1 below are minimum amounts of insurance that shall be maintained by the Owners of the Attached Condominiums. Each Owner of an Attached Condominium is strongly advised to seek the advice of a qualified insurance consultant regarding (i) the amount of property insurance the Owner should procure for casualty losses to property not covered under the Association's property insurance policy; and (ii) the amount of personal liability insurance coverage the Owner should maintain.

10.2.1 **Attached Residential Unit**. Each Owner of an Attached Residential Unit shall obtain and maintain at its sole expense property insurance for the risks covered by, and providing coverage as least as broad as, a current ISO form residential condominium homeowners insurance policy or its equivalent, insuring (i) all personal property located within the Owner's Attached Residential Unit or Exclusive Use Easement Areas including without limitation any property of others under the care, custody, or control of Owner, except the Association's property); (ii) any upgrades or Improvements which are not Association Insured Property and which are located within the Attached Residential Unit or Exclusive Use Easement Areas and (iii) as to the Exclusive Use Garage Areas, the garage door, garage door opener, garage door opener button with sensor, wall lights, man-doors, water heater (if applicable), stairwell (if applicable) and hose bib (if applicable) for an amount equal to the maximum insurable replacement value thereof.

10.2.2 **Waiver of Claims and Subrogation**. Each Owner of a Condominium waives all claims against the Association for any damage to the real and personal property that such Owner is obligated under this Declaration to insure (including without limitation any loss of use of such property), except that an Owner may claim against the Association for property damage to the extent that the damage is caused by the gross negligence or willful misconduct of the Association or its managing agent. Any property insurance policy obtained by an Owner must contain a waiver of subrogation rights by the insurer consistent with this Section; provided, however, that a failure or inability of an Owner to obtain such a waiver from an insurer shall not defeat or impair the waivers between the Owners and the Association set forth herein. The waivers of claims and subrogation set forth in this Subsection apply only in favor of the Association and do not limit or waive, release or discharge any claims that an Owner (or its insurers) may have against any third party, including without limitation any contractor, service provider, agent, other Owner, or Invitee; provided, that such waivers shall also apply in favor of the Association's managing agent if and to the extent that the Association has similarly agreed in a written management agreement to a waiver of claims and subrogation against such managing agent.

10.2.3 **Liability Insurance for Attached Condominiums**. Each Owner of an Attached Condominium shall, at such Owner's sole cost and expense maintain liability insurance providing coverage at least as broad as the current ISO commercial general liability insurance form or its equivalent (including coverage for medical payments), insuring the Owner against liability arising from the ownership, operation, maintenance and use of the Owner's Condominium and Exclusive Use Easement Area by such Owner. Such liability insurance shall have limits of liability of not less than Three Hundred Thousand Dollars (\$300,000) per occurrence and Three Hundred Thousand Dollars (\$300,000) general aggregate.

10.3 **Owners of Detached Residential Units Insurance Obligations**. The Owners of the Detached Residential Units are responsible for obtaining all property insurance and liability insurance for such Owner's Detached Residential Unit and the Improvements located therein, and, with respect to the

Owner's Exclusive Use Garage Area, any personal property within the Owner's Exclusive Use Garage Area, any upgrades made to the Exclusive Use Garage Area, and the garage door, garage door opener, garage door opener button with sensor, wall lights, man-doors, water heater (if applicable), stairwell (if applicable) and hose bib (if applicable). Each Owner is strongly advised to seek the advice of a qualified insurance consultant regarding: (i) the amount of property insurance the Owner should procure for casualty losses to property not covered under the Association's property insurance policy; and (ii) the amount of personal liability insurance coverage the Owner should maintain.

10.4 **Copies of Policies.** The Association shall have the right but not the obligation to request copies of any insurance policy or a certificate of such insurance which an Owner is required to maintain pursuant to this Declaration, and in such case, the Owner shall deliver a copy to the Association within fifteen (15) days upon request. All policies shall indicate they may not be canceled or modified without thirty (30) days prior written notice to the Association, except that ten (10) days prior written notice shall be required if the cancellation is for non-payment of premiums. The acceptance of a copy of an insurance policy by the Association from an Owner shall not constitute a waiver of any of the insurance requirements set forth herein.

10.5 **General Policy Requirements.** All insurance policies the Owners are required to obtain pursuant to this Article shall be placed and maintained with companies rated at least "B/VII" by A.M. Best Company Inc. in Best's Insurance Reports and otherwise reasonably satisfactory to the Association. The coverage types and amounts required for such insurance may be satisfied by any combination of primary and excess policies that collectively serve to satisfy the requirements of this Article, including without limitation condominium Owners' policy forms that provide both property damage and liability insurance coverage under one policy.

10.6 **Review of Insurance.** The Board shall review the adequacy of all insurance required by this Declaration to be maintained by the Association and by the Owners at least once every year. The review shall include a reasonable determination of the replacement cost of all Association Insured Property without respect to depreciation.

10.7 **Board's Authority to Revise Insurance Requirements.** Subject to any statutory insurance requirements, the Board shall have the power and right to adjust and modify the insurance requirements for Owners and the Association set forth herein to require coverage and protection that is customarily carried by and reasonably available to prudent owners and associations of projects similar in construction, location and use. If the Board elects to materially reduce the coverage required to be maintained by the Association from the coverage required in this Article, the Board shall make all reasonable efforts to notify the Owners and Mortgagees of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction. The Association and its directors and officers, and the Owners shall have no liability to each other or to any Mortgagee and shall not be in breach of their obligations hereunder, if after a good faith effort, the Association or Owner is unable to obtain one or more of the insurance coverages required hereunder to the extent the insurance is no longer available, or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or in the case of insurance required to be maintained by the Association, if the Owners fail to approve any Assessment increase needed to fund the insurance premiums.

**ARTICLE 11  
DESTRUCTION OF  
IMPROVEMENTS AND CONDEMNATION**

*This Article addresses what happens in the event of any damage or destruction to a portion of the Property. It is the intent of this Article that if there are sufficient insurance proceeds or if the Members elect to impose a Special Assessment to pay the costs of any shortfalls in the insurance proceeds or elect to adopt an alternative plan of reconstruction so that the rebuilding can occur, that the Association have the responsibility and obligation to repair and restore the damaged Improvements.*

*In addition, the County or other Governmental Agencies can exercise rights of eminent domain that allow the County or other Governmental Agencies to "take" all or a portion of the Community. This Section describes what happens if a taking of all or a portion of the Association Property occurs.*

11.1 **Restoration Defined.** As used in this Article 11, the term "restore" or "restoration" shall mean repairing, rebuilding or reconstructing damaged Improvements to substantially the same condition and appearance in which they existed prior to fire or other casualty damage.

11.2 **Restoration of Association Insured Property.** The Association shall be obligated to restore all Association Insured Property in accordance with the provisions set forth herein.

11.2.1 **Sufficient Proceeds.** The costs of restoration of the damaged Improvement shall be paid first from any insurance proceeds paid to the Association under existing insurance policies. If the insurance proceeds exceed the costs of restoration, the excess proceeds shall be paid into reserves and held for the benefit of the Association. If the insurance proceeds are insufficient to restore the damaged Improvement, the Board shall then add to the insurance proceeds all reserve account funds designated for the repair or replacement of the damaged Improvement. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. If the aggregate amount of insurance proceeds and such reserve account funds are insufficient to restore the damaged Improvements, and if such claims are not waived, the Improvement shall be restored and the Board shall determine whether to levy a Compliance Assessment against any Owner or Owners who caused such damage in accordance with Section 10.1.3 and/or impose a Special Assessment for the cost of repairing and reconstructing Improvements to the extent insurance proceeds are unavailable. Such Special Assessment shall be levied as described in Article 5 (but without the consent or approval of Members, despite any contrary provisions in this Declaration). To the extent the damaged Improvement is an Improvement that is maintained as part of the Bungalows Special Benefit Area, the Special Assessment shall only be levied against the Owners within such Special Benefit Area.

11.2.2 **Insufficient Proceeds.** If the total funds available to the Association are still insufficient to restore the damaged Improvement, then the Board first shall attempt to impose an additional Special Assessment against the Condominiums pursuant to subsection (a) below, and second to use a plan of alternative reconstruction pursuant to subsection (b) below; provided, however, that in the event the damaged Improvements is an Improvement within the Bungalows Special Benefit Area, the Board shall attempt to levy such additional Special Assessment against the Owners within the Bungalows Special Benefit Area and the votes required for such Special Assessment to be levied against the Bungalows Special Benefit Area shall only be required to be approved by the Members within the Bungalows Special Benefit Area. If the Members do not approve such actions, then as to any damage that is not part of a Bungalow Condominium Building, the Association shall attempt to levy an Additional Special Assessment and if such Additional Special Assessment is not approved, the Association shall restore the area to the extent feasible with the available proceeds. If the Members of the Bungalows Special Benefit Area do not approve such action as to any Bungalows Condominium Building, the entire building of which the damaged Improvement is a part shall be subject to the provisions of Section(a) and (b) below.

(a) **Additional Special Assessment.** If the total funds available to restore the damaged Improvement as provided in Section 11.2.1 are insufficient, then a meeting of the Members shall be called for the purpose of approving a Special Assessment to make up all or a part of the deficiency

("Additional Special Assessment"); provided, however, that only the Members within the Bungalows Special Benefit Area shall approve and pay a Special Assessment levied for purposes of restoring an Improvement maintained/insured pursuant to the Bungalows Special Benefit Area Budget within the Bungalows Special Benefit Area. If the amount of the Additional Special Assessment approved by the Members, and the amounts available pursuant to Section 11.2.1, are insufficient to restore the damaged Improvement, or if no Additional Special Assessment is approved, the Association shall consider a plan of alternative reconstruction in accordance with subsection (b).

(b) **Alternative Reconstruction**. The Board shall consider and propose plans to reconstruct the damaged Improvement making use of whatever funds are available to it pursuant to Section 11.2.1 and subsection (a) above ("Alternative Reconstruction"). All proposals shall be presented to the Owners. If two-thirds of the Voting Power of the Owners whose Residential Units were materially damaged, as determined by the Association ("Affected Owners") and a majority of the Voting Power of the Members within the Bungalows Special Benefit Area, including the Affected Owners, agree to any plan of Alternative Reconstruction, then the Board shall contract for the reconstruction of the damaged Improvement in accordance with the plan of Alternative Reconstruction making use of whatever funds are then available to it. If no plan of Alternative Reconstruction is agreed to for a Bungalow Condominium Building, then the provisions of subsection (c) shall apply.

(c) **Sale of Building Containing Condominiums**. If the damaged Improvement is part of a Bungalow Condominium Building ("Damaged Building"), the damage renders one or more of the Attached Condominiums uninhabitable, and the Improvements will not be restored in accordance with the provisions of subsections (a) and (b) above, the Board, as the attorney-in-fact for each Owner of an Attached Condominium/Owner of an Exclusive Use Garage Area in the Damaged Building, shall be empowered to sell the Damaged Building, including all Attached Condominiums and any Exclusive Use Garages Areas located therein, in their then present condition, on terms to be determined by the Board, provided that the Board receives adequate assurances that the purchaser shall, and has the financial capability to: (i) restore the Damaged Building (either by renovation or removal and rebuilding), (ii) remove the Damaged Building (including foundations), grade the area, and appropriately landscape or otherwise improve the area, or (iii) perform any combination of the foregoing. Any work to be performed by the purchaser with respect to any of the foregoing shall be subject to the provisions of this Declaration. In lieu of selling the Damaged Building to a third Person, the Association may purchase the Bungalow Condominium Building on satisfaction of the following conditions:

(d) Members holding at least sixty-seven percent (67%) of the total Voting Power (including the votes allocated to the Condominiums within the Damaged Building) approve of the purchase;

(1) the purchase price is the fair market value of the Damaged Building as of the date of sale as determined by an appraisal made by a qualified and independent real estate appraiser;

(2) any special assessment needed to fund the purchase price shall be levied against all Condominiums, including the Condominiums within the Damaged Building;

(3) the Association has an adequate source of funds to repair, renovate or rebuild all or a portion of the Damaged Building and to remove and appropriately landscape the remaining area. For this purpose, no Condominium that is being purchased shall be subject to any Assessment intended to be used as a source of such funds.

(2) **Distribution of Proceeds for Sale of Bungalow Condominium Building**. The proceeds from the sale, together with the insurance proceeds received and any reserve funds allocated to the Damaged Building, after deducting therefrom the Association's sale expenses, including commissions, title and recording fees, and legal costs, shall be distributed among the Owners of Condominiums in the Damaged Building and their respective Mortgagees, in proportion to the respective fair market values of these Condominiums immediately prior to the date of the event causing the damage

as determined by an independent appraisal made by a qualified real estate appraiser selected by the Board. If a Damaged Building is removed and not restored so that the new building contains the same number of Condominiums as the removed building, the Board shall take appropriate steps to adjust the property interests of the remaining Owners and to effect such amendments as may be necessary to this Declaration, the Condominium Plan and the Map to reflect the revised property interests and other related changes.

11.3 **Rebuilding Contract.** The Board or its authorized representative shall obtain bids from at least two (2) licensed and reputable contractors and shall accept the restoration work from whomever the Board determines to be in the best interests of the Members. The Board shall have the authority to enter into a written contract with the contractor for such restoration, and the insurance proceeds shall be disbursed to the contractor according to the terms of the contract. The Board shall take all steps necessary to assure the commencement and completion of authorized restoration at the earliest possible date. Such restoration shall be commenced no later than one hundred eighty (180) days after the event requiring restoration and shall thereafter be diligently prosecuted to completion. Such restoration shall return the damaged Improvements to substantially the same condition and appearance in which it existed prior to the damage or destruction.

11.3.1 **Authority to Effect Changes.** If any adjacent Residential Units or portion thereof are damaged or destroyed or in need of renovation or rehabilitation and the Residential Units are repaired or reconstructed pursuant to the provisions set forth herein, the Residential Unit may be repaired or reconstructed in a manner that alters the boundaries of such Residential Units or the adjacent Association Property provided the following conditions are satisfied:

(b) the alteration has been approved by the Board, by the holders of any First Mortgages to the extent required herein and the Owners of the affected Residential Units;

(c) the Board has determined that the alteration is necessary in order to comply with current building code requirements, to meet current building construction standards and procedures, or to improve the conditions and quality of the affected Residential Units;

(d) the alteration does not materially change the location of any Residential Unit or materially reduce the size of any Residential Unit without the consent of the Owner and the holders of any First Mortgages thereon. For purposes herein, a material reduction in the size of the Residential Unit shall mean any alteration that increases or decreases the square footage of the interior floor space of the Residential Unit by more than ten percent (10%) from the square footage as shown on the Condominium Plan;

(e) the Board has determined that any alteration that will relocate or reduce the Association Property will not unreasonably interfere with the rights of the Owners and occupants to use and enjoy the Association Property;

(f) the Condominium Plan is amended to reflect the alteration to the Residential Units or Association Property; and

(g) easements for any encroachments created by such alterations are granted to the Affected Owners by the Association.

Each Owner irrevocably appoints the Association as that Owner's attorney-in-fact (except for the Secretary, U.S. Department of Veterans Affairs) and irrevocably grants to the Association the full power in the name of the Owner to effect any alteration to any Residential Unit or Association Property as authorized above, including, without limitation, the execution, delivery and recordation of any Condominium Plan amendments, deeds or other instruments.

11.4 **Minor Repair and Reconstruction.** The Board shall have the duty to repair and reconstruct Improvements, without the consent of Members and irrespective of the amount of available

insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed Ten Thousand Dollars (\$10,000). The Board is expressly empowered to levy a Special Assessment for the cost of repairing and reconstructing improvements to the extent insurance proceeds are unavailable and determine whether to levy a Compliance Assessment against any Owner who caused the damage pursuant to Section 10.1.3, such Assessment to be levied as described above (but without the consent or approval of Members, despite any contrary provisions in this Declaration).

11.5 **Damage or Destruction to an Attached Condominium.** In the event of damage or destruction to any Attached Residential Unit, the Owner thereof shall (unless the Association is not required to repair surrounding damaged Association Property pursuant to the terms set forth above) reconstruct the same as soon as reasonably practicable and substantially in accordance with the original plans and specifications therefor; provided, however, that any such Owner may, with the written consent of the Board, reconstruct or repair the portion of the Attached Residential Unit that is not part of the Association Insured Property pursuant to new or changed plans and specifications. In the event the Board fails to approve or disapprove such changed plans and specifications within sixty (60) days of the receipt thereof, they shall be deemed to have been approved. The Owner shall be entitled to the benefit of any master policy of property insurance maintained by the Association to the extent it covers the damage or destruction of elements of the Condominium that are within the Attached Residential Unit and which are the obligation of the Owner to repair as provided in this Declaration. With the exception of any casualty or damage insured against by the Association pursuant to Section 10.1, restoration and repair of any damage to the interior of any individual Attached Residential Unit, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner, provided however, that nothing contained in this Section shall be construed as a waiver of claims that the Owner of a damaged Attached Residential Unit may have against another Owner who caused the damage. In the event of a determination to rebuild the Property after partial or total destruction, as provided in this Article 11, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with Plans and Specifications approved in accordance with Article 8.

11.6 **Damage or Destruction to a Detached Residential Unit.** In the event of damage or destruction to a Detached Residential Unit, the Owner thereof shall reconstruct the same as soon as reasonably practicable and substantially in accordance with the original plans and specifications therefor. Such repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with Plans and Specifications approved in accordance with Article 8.

11.7 **Condemnation of Association Property.** If any portion of the Association Property is taken by condemnation, eminent domain or any proceeding in lieu thereof, then the Owners and their Mortgagees as their respective interests then appear, shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds would be distributed pursuant to the provisions above; provided, however, that should it be determined to repair or rebuild any portion of the Association Property, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in this Article for repairing damaged or destroyed portions of the Association Property. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in this Article for determining whether to rebuild or repair following damage or destruction.

11.8 **Condemnation of a Residential Unit.** In the event of any taking of a Residential Unit, the Owner (and such Owner's Mortgagees as their interests may appear) of the Residential Unit shall be entitled to receive the award for such taking and after acceptance thereof such Owner and such Owner's Mortgagee shall be divested of all further interest in the Residential Unit and membership in the Association if such Owner shall vacate such Owner's Residential Unit as a result of such taking. In such event said Owner shall grant its remaining interest in the Common Area appurtenant to the Residential Unit so taken, if any, to the other Owners owning a fractional interest in the same Common Area, such grant to be in proportion to the fractional interest in the Common Area then owned by each Owner.

**ARTICLE 12**  
**PARTITION AND SEVERABILITY OF INTERESTS**

12.1 **Suspension.** The right of partition is suspended pursuant to California Civil Code Section 4610 as to the Community. Nothing in this Article shall be deemed to prohibit partition of a co-tenancy in a Condominium.

12.2 **Partition.** Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of the Community, nor shall Declarant, any Owner or any other person acquiring any interest in any Condominium seek any such judicial partition. The undivided interest in the Common Area described above may not be altered or changed as long as the prohibition against severability of interests in a Condominium remains in effect as provided in this Declaration. Notwithstanding the foregoing, judicial partition shall be permitted as follows:

12.2.1 With the approval, after substantial destruction or condemnation of the Community occurs, of at least sixty-seven percent (67%) of the total Voting Power and approval by Eligible Holders who represent at least fifty-one percent (51%) of the Condominiums that are subject to Mortgages held by Eligible Holders; or

12.2.2 With the approval, for reasons other than substantial destruction or condemnation of the Community, of at least sixty-seven percent (67%) of the total Voting Power and approval by Eligible Holders who represent at least sixty-seven percent (67%) of the Condominiums that are subject to Mortgages held by Eligible Holders; or

12.2.3 As allowed by California law, including Civil Code Section 4610, as the same may be amended from time to time.

12.2.4 An Eligible Holder who receives a written request to give such approvals who does not deliver or mail the requesting party a negative response within sixty (60) days shall be deemed to have given such approval provided such written request was delivered by certified mail or registered mail with "return receipt" requested.

12.3 **Distribution of Proceeds.** Proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as specified or apportioned in the judgment of partition, or if not so specified, as their interests appear in proportion to the fair market value of the Condominiums at the date of the sale as determined by an independent appraisal conducted by a member of the American Institute of Real Estate Appraisers with the designation of a Member Appraisal Institute (M.A.I.) or if such institute no longer exists, an appraiser of comparable experience.

12.4 **Power of Attorney.** Each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Community, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Community may be had under California Civil Code Section 4610. The power of attorney shall:

12.4.1 Be binding on all Owners, whether they assume the obligations under this Declaration or not;

12.4.2 Be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of at least seventy-five percent (75%) of the Owners and at least seventy-five percent (75%) of all Institutional Mortgagees; and

12.4.3 Be exercisable only after recordation with the County Recorder of a certificate executed by those who have power to exercise the power of attorney that the power of attorney is properly exercisable under the authority of this Declaration. This certificate shall be conclusive evidence of proper

exercise in favor of any person relying on it in good faith; provided; however, that said power of attorney shall not apply to the Administrator of Veterans Affairs, an Officer of the United States of America.

12.5 **Prohibition Against Severance.** An Owner shall not be entitled to sever such Owner's Residential Unit from its membership in the Association, and shall not be entitled to sever such Owner's Residential Unit and such Owner's membership from such Owner's undivided interest in the Common Area for any purpose. None of the component interests in a Condominium can be separately sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to such Owner's Residential Unit over the Association Property from such Owner's Condominium, and any attempt to do so shall be void. It is intended hereby to restrict severability pursuant to California Civil Code Section 4630. Notwithstanding the foregoing, the suspension of such right of severability contained herein shall not extend beyond the period set forth in Section 12.3 in which the right to partition the Community is suspended thereunder.

12.6 **Conveyances.** Any conveyance of a Condominium by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this Section shall preclude the Owner of any Condominium from creating an estate for life or years, co-tenancy or joint tenancy in the ownership of the Condominium with any other person or persons.

### ARTICLE 13 RIGHTS OF MORTGAGEES

*Certain Mortgagees need to protect their interests in the Community. This Article gives certain Mortgagees rights to protect their security interests.*

13.1 **Conflict.** Notwithstanding any contrary provision contained elsewhere in the Governing Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees as specified herein.

13.2 **Liability for Unpaid Assessments.** Any Institutional Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the First Mortgage (except upon a voluntary conveyance to the Institutional Mortgagee) or by foreclosure of the First Mortgage shall take the property free of any claims for unpaid assessments or charges against the Condominium which accrue prior to the acquisition of title to the Condominium by the Institutional Mortgagee.

13.3 **Payment of Taxes and Insurance.** All taxes, assessments and charges that may become a lien prior to the lien of any First Mortgagee shall be levied only to the individual Condominium and not the Community as a whole. Institutional Mortgagees may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against any Association Property or Improvements situated thereon and may pay overdue premiums on property insurance policies or secure new property insurance coverage on the lapse of a policy for such Association Property. Institutional Mortgagees making such payments shall be owed immediate reimbursement for such expenditures from the Association and, on demand, the Association shall execute an agreement in favor of all Institutional Mortgagees reflecting entitlement to reimbursement.

13.4 **Notice to Mortgagees.** Mortgagees and guarantors of Mortgages are entitled to timely written notice of the following events:

13.4.1 Any condemnation loss or casualty loss that affects either a material portion of the Community or the Condominium on which the Mortgagee holds a Mortgage;

13.4.2 Any delinquency in the payment of Assessments or charges owed by the Owner that is subject to a Mortgage held by the Mortgagee if the delinquency is not cured within sixty (60) days after its due date;

13.4.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

13.4.4 Any proposal to take any action specified in this Article or Article 11, provided that, for purposes of a proposal to terminate the Community and/or dissolve the Association, "timely written notice" shall mean at least thirty (30) days' advance written notice;

13.4.5 Any default by the Owner-Mortgagor of a Condominium subject to a Mortgage held by the Mortgagee in the performance of its obligations under this Declaration or the Bylaws which is not cured within sixty (60) days; or

13.4.6 Any proposed action that requires the consent of a specified percentage of the Mortgagees.

13.5 **Reserve Fund**. The Association shall maintain a reserve account with funds sufficient to pay for maintenance, repair and periodic replacement of Association Property and other Association Maintenance Areas that the Association is obligated to maintain cost sharing obligations. This reserve fund shall be funded by Regular Assessments of Owners that are payable in installments rather than by Special Assessment; provided, however, that this provision shall not be deemed to limit the power of the Association to levy any other type of Assessment or charge authorized by this Declaration.

13.6 **Inspection of Books and Records**. Upon request, any Owner, prospective purchaser, or Eligible Holder shall be entitled to inspect the books, records and financial statements of the Association, the Governing Documents and any amendments thereto, during normal business hours or under other reasonable circumstances.

13.7 **Financial Statements**. The Association, at its expense, shall prepare an audited financial statement for the immediately preceding Fiscal Year and make the same available within one hundred twenty (120) days after the Association's Fiscal Year-end to any Institutional Mortgagee or Eligible Holder that has submitted a written request for it.

13.8 **Actions Requiring Eligible Holder Approval**. Unless at least sixty-seven percent (67%) of the Eligible Holders (based on one vote for each Mortgage owned) and at least sixty-seven percent (67%) of the Owners other than Declarant have given their prior written approval, the Association shall not be entitled to:

13.8.1 By act or omission, seek to abandon or terminate the Community and/or dissolve the Association;

13.8.2 By act or omission abandon, partition, subdivide, encumber, sell or transfer any property or improvements owned, directly or indirectly, by the Association for the benefit of the Condominiums and the Owners. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Community by the Association and Owners shall not be deemed a transfer within the meaning of this Section);

13.8.3 By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of Condominiums, the exterior maintenance of Condominiums, or the upkeep of lawns, plantings or other landscaping in the Community;

13.8.4 By act or omission change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner;

13.8.5 Partition or subdivide a Condominium;

13.8.6 Fail to maintain fire and extended coverage insurance on insurable portions of the Association Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost; and

13.8.7 Use insurance proceeds for losses to any property or Improvements owned by the Association other than for the repair, replacement or reconstruction of such property and Improvements.

13.9 **Votes for Termination of Community.** Any election to terminate the legal status of the Community as a Condominium community shall require:

13.9.1 The approval of Mortgagees that represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages and at least sixty-seven percent (67%) of the total Voting Power if the election to terminate the legal status is a result of substantial destruction or a substantial taking in condemnation of the property within the Community; or

13.9.2 The approval of at least sixty-seven percent (67%) of the total Voting Power and Mortgagees that represent at least sixty-seven percent (67%) of the votes of Condominiums that are subject to Mortgages, if Section 13.9.1 is not applicable.

For so long as is required by FNMA's legal requirements for Community acceptance, all references to "Mortgagees" in this Section shall be deemed to include all guarantors of such Mortgagees.

13.10 **Condemnation or Destruction.** In the event a portion of the Community is either condemned or destroyed or damaged by a hazard that is insured against, restoration or repair shall be performed substantially in accordance with the provisions of this Declaration and the original plans and specifications for the Community unless Eligible Holders representing at least fifty-one percent (51%) of the votes of Condominiums subject to Mortgages held by Eligible Holders approve the taking of other action by the Association.

13.11 **Self-Management.** The vote or approval by written ballot of at least sixty-seven percent (67%) of the total Voting Power and Eligible Holders that represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages held by Eligible Holders shall be required to assume self-management of the Community if professional management has been required by an Eligible Holder at any time.

13.12 **Mortgagee Protection.** A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any First Mortgage made in good faith and for value as to any Condominium; provided, however, that the conditions contained in this Declaration shall be binding upon and effective against any Owner of a Condominium if the Condominium is acquired by foreclosure, trustee's sale or otherwise.

13.13 **Distribution of Insurance and Condemnation Proceeds.** No Owner, or any other party, shall have priority over any right of First Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominiums or Association Property. Any provision to the contrary in the Governing Documents is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected First Mortgagees naming the Mortgagees, as their interests may appear.

13.14 **Voting Rights on Default.** In case of default by any Owner in any payment due under the terms of any Institutional Mortgage encumbering such Owner's Condominium or the promissory note secured by the Mortgage, the Mortgagee or its representative, on giving written notice to such defaulting Owner or Owners, and placing of record a notice of default, is hereby granted a proxy and can exercise the voting rights of such defaulting Owner attributable to such Condominium at any regular or special meeting of the Members held during such time as such default may continue.

13.15 **Foreclosure**. If any Condominium is encumbered by a First Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for Assessments, or installments of Assessments, shall not affect or impair the lien of the First Mortgage. On foreclosure of the Mortgage, the lien for Assessments, including Additional Charges, that has accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage with the foreclosure-purchaser taking title to the Condominium free of the lien for Assessments, including interest, costs (including attorneys' fees), and late charges levied by the Association with respect thereto or installments that has accrued up to the time of the foreclosure sale. On taking title to the Condominium, the foreclosure-purchaser shall only be obligated to pay Assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Condominium. The subsequently accrued Assessments or other charges may include previously unpaid Assessments provided all Owners, including the foreclosure-purchaser, and its successors and assigns are required to pay their proportionate share as provided in this Section.

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

13.17 **Loan to Facilitate**. Any Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by an assignment-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article.

13.18 **Appearance at Meetings**. Because of its financial interest in the Community, any Mortgagee may appear (but cannot vote except as may be provided for herein) at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made the subject of remedial proceedings or Assessments.

13.19 **Right to Furnish Information**. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

13.20 **Inapplicability of Right of First Refusal to Mortgagee**. No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium shall be granted to the Association without the written consent of any Mortgagee of the Condominium. Any right of first refusal or option to purchase a Condominium that may be granted to the Association (or other person, firm or entity) shall not apply to any conveyance or transfer of title to such Condominium, whether voluntary or involuntary, to a Mortgagee that acquires title to or ownership of the Condominium pursuant to the remedies provided in its Mortgage or by reason of foreclosure of the Mortgage or deed- or assignment-in-lieu of foreclosure and shall not apply to any sale or lease of Condominium acquired by the Mortgagee or its assignee. In addition, in no event shall any right of first refusal adversely impact the rights of a Mortgagee or its assignee to foreclose or take title to a Condominium pursuant to the remedies in the applicable Mortgage, accept a deed or assignment in lieu of foreclosure in the event of a default by a mortgagor, or sell or lease a Condominium acquired by the Mortgagee or its assignee.

13.21 **Written Notification to Mortgagees or Guarantors of Mortgages**. If a Mortgagee or guarantor of a Mortgage has not given written notice to the Association specifying its name and the name of the Owner and address of the Condominium encumbered by the Mortgage, any written notice or proposal required or permitted by this Declaration to be given to such Mortgagee or guarantor shall be deemed properly given if deposited in the United States mail, postage prepaid, and addressed to the Mortgagee or guarantor at its address appearing of record in the Mortgage (or assignment thereof, if applicable).

#### ARTICLE 14 AMENDMENTS

*This Declaration and the easements, covenants, conditions and restrictions established under the Declaration will continue in effect for 60 years and thereafter will continue unless a certain percentage of*

*the Owners elect to terminate the Declaration. This will help to ensure the continued operation, use and viability of the Community. This Article also describes the procedures and requirements for amendments to this Declaration. Some provisions of this Declaration may not be amended without the consent of Declarant. Moreover, each Owner acknowledges that corrections and supplements to this Declaration may be necessary and that it is important to give Declarant the right to record such Supplementary Declarations without the consent of any Owner except as otherwise provided in this Declaration.*

**14.1 Amendment Before the Conveyance of First Condominium.** Before the conveyance of the first Condominium to a First Purchaser, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of record of an instrument amending or revoking the Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Official Records.

**14.2 Amendments After Conveyance of First Condominium.** Except as may otherwise be stated in this Declaration and as set forth below, after the conveyance of the first Condominium to a First Purchaser and during the period of time prior to conversion of the Class B membership in the Association to Class A membership, this Declaration may be amended at any time and from time to time provided that the vote or approval by written ballot of a majority of the Voting Power of each class of Members has been obtained. After conversion of the Class B membership in the Association to Class A membership, this Declaration may be amended at any time and from time to time, provided that the vote or approval by written ballot of: (a) at least a majority of the total Voting Power; and (b) at least a majority of the Voting Power of the Members, other than Declarant, has been obtained. The vote on a proposed amendment to the Declaration shall be held by secret written ballot in accordance with the procedures set forth in California Civil Code Section 5100 et seq., and the rules adopted by the Board pursuant thereto. Such amendment shall become effective upon the recording of a Certificate of Amendment signed and acknowledged by the President or Vice President of the Association and the Secretary or Assistant Secretary of the Association certifying that such votes or approval by written ballot have been obtained. For the purposes of recording the Certificate of Amendment, the President or Vice-President and Secretary or Assistant Secretary of the Association are hereby granted an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying and executing and recording the Certificate of Amendment in the Official Records. Nothing contained herein shall limit the Members of the Association from exercising the rights of the Association under California Civil Code Section 4275.

**14.3 Approval of Material Amendments.** In addition to the requirements of Section 14.2, in the case of any Material Amendment, as defined below, the vote of Mortgagees that represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages and at least sixty-seven percent (67%) of the Voting Power of each class of Members (or, following conversion of Class B membership to Class A membership, at least sixty-seven percent (67%) of the total Voting Power of the Association and at least sixty-seven percent (67%) of the voting power of Members of the Association other than Declarant) shall also be required. For purposes of this Section, "Material Amendment" shall mean, for the purposes of this Section, any amendments to provisions of this Declaration governing any of the following subjects:

14.3.1 The fundamental purpose for which the Community was created (such as a change from residential use to a different use);

14.3.2 Assessments, collection of assessments, assessment liens and subordination thereof;

14.3.3 The reserves for repair and replacement of the Association Property and Association Maintenance Areas;

14.3.4 Property Maintenance Obligations;

14.3.5 Casualty and liability, insurance or fidelity bond requirements;

14.3.6 Reconstruction in the event of damage or destruction;

14.3.7 Rights to use the Association Property;

14.3.8 Reallocation or conveyance of any interests in the Common Area;

14.3.9 Voting;

14.3.10 Any provision that, by its terms, is specifically for the benefit of Mortgagees, or specifically confers rights on Mortgagees;

14.3.11 Expansion or contraction of the Community or the addition, annexation or withdrawal of property to or from the Community, other than the addition or deletion of the Annexable Property pursuant to Section 15.2 below, the redefinition of Condominium boundaries or the conversion of a Condominium or Condominiums into Association Property;

14.3.12 Imposition of any restriction on any Owner's right to lease, sell or transfer its Condominium;

14.3.13 Merger or consolidation of the Association;

14.3.14 A determination not to require professional management if required pursuant to this Declaration; and

Any Mortgagee who receives written request to consent to additions or amendments requiring consent under this provision who does not deliver to the requesting party a negative response within sixty (60) days after receipt of a notice delivered by certified or registered mail, return receipt requested, shall be deemed to have consented to such request. If any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Official Records.

#### 14.4 **Additional Approvals.**

14.4.1 **Governmental Approvals.** If the consent or approval of any Governmental Agency, VA, FNMA or FHA is required with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained pursuant to the requirements of the Governmental Agency, VA, FNMA or FHA.

14.4.2 **Amendment of Certain Provisions.** If any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Notwithstanding anything to the contrary contained in this Declaration, Sections 1.66, 7.2.4, 7.3.6 and 16.5 of this Declaration shall not be amended without the prior written approval of Declarant.

14.4.3 **Declarant's Consent.** So long as Declarant owns any portion of the Property or Annexable Property, this Declaration may not be amended to do any of the following without the prior written

approval of Declarant: (a) diminish or eliminate any rights specifically granted or reserved to Declarant; or (b) modify or eliminate the easements reserved to Declarant.

14.5 **Reliance on Amendments.** Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

14.6 **Conflict with Article 13 or Other Provisions of this Declaration.** To the extent any provisions of this Article conflict with the provisions of Article 13 or any other provision of this Declaration except those contained in this Section 14.6, the provisions of Article 13 shall control.

14.7 **Business and Professions Code Section 11018.7.** All amendments or revocations of this Declaration shall comply with the provisions of California Business and Professions Code Section 11018.7 to the extent such section is applicable.

14.8 **Notice to Eligible Holder.** Eligible Holders shall be entitled to timely written notice of any amendments to this Declaration, the Bylaws or the Articles.

## ARTICLE 15 ANNEXATION AND DEANNEXATION OF PROPERTY

*The Declaration encumbers the Property as described below. This Article sets forth such procedures to annex Annexable Property to and make it subject to this Declaration.*

15.1 **Annexation.** Any of the Annexable Property may be annexed to and become subject to this Declaration by any of the methods set forth hereinafter in this Article. Declarant intends to sequentially develop the Annexable Property on a phased basis. However, Declarant may elect not to develop all or any part of such real property to this Declaration in increments of any size whatsoever, or to develop more than one such increment at any given time and in any given order or develop such real property as a separate community. Although Declarant shall have the ability to annex the Annexable Property, Declarant shall not be obligated to annex all or any portion of the Annexable Property, and the Annexable Property shall not become subject to this Declaration unless and until a Supplementary Declaration covering it has been recorded.

15.2 **Annexation Without Approval.** All or any part of the Annexable Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that:

15.2.1 The proposed Annexation is in substantial conformance with a detailed plan of phased development submitted to the DRE with the application for a Public Report for the first Phase of the Community;

15.2.2 The proposed Annexation will not result in a substantial and material overburdening of the common interests of the then existing Owners;

15.2.3 The proposed Annexation will not cause a substantial increase in Assessments against existing Owners that was not disclosed in the Public Reports under which pre-existing Owners purchased their interests;

15.2.4 For each Condominium to be annexed for which a rental program has been in effect by the Owner for a period of at least one (1) year as of the date of conveyance of the first Condominium to a First Purchaser in the annexed Phase, Owner shall pay to the Association, before or concurrently with the first close of escrow for the sale of a Condominium within the annexed Phase, an amount for each month or portion thereof during which the Condominium was occupied under such rental program that shall be established by the Board for reserves for replacement or deferred maintenance of

Association Property Improvements necessitated by or arising out of the use and occupancy of the Condominiums under the rental program;

15.2.5 Before Annexation pursuant to this Section of any of the Annexable Property that is being developed as a phased FHA and/or VA community, plans for the development of the Annexable Property must be submitted to FHA and/or the VA as applicable, and FHA and/or VA as applicable, must determine that such plans are in accordance with the previously approved general plan and so advise Declarant; and

15.2.6 Each Supplementary Declaration effecting the Annexation contemplated under this Section must be executed by Declarant.

For purposes of this Section, the issuance of a Public Report shall conclusively be deemed to be satisfaction of the criteria set forth above.

15.3 **Supplementary Declarations.** The annexation authorized under the foregoing Sections shall be made by filing of record by Declarant, of a Supplementary Declaration, which shall extend the plan of this Declaration to such property. A Supplementary Declaration may also be recorded by Declarant or the Association for any of the purposes described in Sections 1.95 and 9.7.

15.4 **Annexable Property Not Subject to Declaration.** The Annexable Property shall not be subject to any of the rights granted under this Declaration, including but not limited to, easement rights, the rights of use and enjoyment by Owners and the right to enforce this Declaration against such Annexable Property, until the conveyance of the first Condominium in a Phase of the Annexable Property. After such conveyance, the rights granted in this Declaration shall apply only to such Annexable Property annexed.

15.5 **Mergers or Consolidations.** Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or, alternatively, the properties, right and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established by this Declaration within the Community, together with the covenants and restrictions established upon any other property as one plan.

15.6 **De-Annexation.** Declarant may delete all or any portion of the Property from the coverage of this Declaration and rescind any Supplementary Declaration, provided that: (a) Declarant is the sole Owner of all of the real property described in the Supplementary Declaration to be rescinded or obtains the consent of the fee title Owner(s) of the real property to be de-annexed; and (b) assessments have not commenced with respect to any portion of the real property to be de-annexed. Such deletion shall be effective upon the recordation of a written instrument signed by Declarant, in the same manner as the Supplementary Declaration to be rescinded was recorded.

15.7 **VA Requirements.** Notwithstanding anything to the contrary set forth in this Declaration, future improvements to the Annexable Property shall be consistent with initial improvements in terms of quality of construction. The Annexation of additional property to the Community must not affect the statutory validity of the Community as a condominium project or the validity of title to the Condominiums. Declarant's right to annex the Annexable Property to the Community pursuant to the overall general plan of development for the Community originally submitted to and approved by the VA shall terminate on the latter of: (i) the date which is seven (7) years after the date of the recordation of this Declaration; or (ii) a subsequent date after such seven (7) year period as may be accepted by the VA.

**ARTICLE 16  
TERM AND ENFORCEMENT**

*This Article describes the enforcement rights for violations of this Declaration and the Governing Document and certain procedures which must be followed in the event of a claim. The claims procedures are intended to establish an efficient procedure to enable claims to be resolved promptly for the benefit of the Community.*

16.1 **Term.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, Declarant or any Member, their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by at least sixty-seven percent (67%) of the Members has been recorded at least one (1) year prior to the end of any such period in the manner required for a conveyance of real property, in which it is agreed that this Declaration shall terminate at the end of the then applicable term.

16.2 **Rights of Enforcement of Governing Documents.** Subject to Section 16.5, Declarant, the Association or any Owner shall have a right of action against any Owner, and Declarant or any Owner shall have a right of action against the Association to enforce by proceedings at law or in equity, all covenants, conditions, and restrictions now or hereafter imposed by the provisions of the Governing Documents or any amendment thereto, including the right to prevent the violation of such covenants, conditions and restrictions and the right to recover damages or other dues for such violation except that Owners shall not have any right of enforcement concerning Assessment liens. The Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the Association Rules unless the Association refuses or is unable to effectuate such enforcement, in which case any Owner who otherwise has standing shall have the right to undertake such enforcement. Failure of the Association, Declarant or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

16.2.1 **Disputes Involving Members.** Prior to filing an Enforcement Action (as such term is defined in California Civil Code 5925) by a Member solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, related to the enforcement of the Governing Documents, the Members shall be required to comply with California Civil Code Sections 5925 through 5965, if applicable. Failure of a Member to comply with the alternative dispute resolution requirements of California Civil Code Section 5930 may result in the loss of the Member's right to sue the Association or another Member regarding enforcement of the Governing Documents or Applicable Laws.

16.2.2 **Disputes involving the Association and Members.** Prior to filing a civil action by either the Association or by a Member solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages (other than for nonpayment of Assessments) related to the any of the following matters: (a) enforcement of the Governing Documents; (b) damage to the Association Property; or (c) damage to a Condominium that arises out of, or is integrally related to, damage to the Association Property or Association Maintenance Areas, the Association shall be required to perform any act reasonably necessary to resolve any civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or non-binding arbitration proceedings. Any dispute resolution procedure imposed by the Association shall satisfy the requirements of California Civil Code Sections 5900, 5905 and 5910. In the event the Association does not comply with the minimum requirements of a fair, reasonable and expeditious dispute resolution procedure, the Association or any Member may invoke the procedures provided for in California Civil Code Section 5915.

16.2.3 **Notice Requirements.** Members of the Association shall annually be provided a summary of the provisions of California Civil Code Section 5900, *et seq.* which specifically references the provisions of California Civil Code Section 5965. The summary shall be provided either at the time the Budget required by California Civil Code Section 5300 is distributed or in the manner specified in California

Corporations Code Section 5016. The summary shall include a description of the Association's internal dispute resolution procedure, as required by California Civil Code Section 5920.

16.2.4 **Civil Action.** A civil action to enforce the Governing Documents shall comply with California Civil Code Sections 5850 through 5985.

16.3 **Enforcement of Non Payment of Assessments.** Each Owner of any Condominium then subject to Assessment shall be deemed to covenant and agree to pay to the Association each and every Assessment provided for in this Declaration. The Association shall have the right to enforce such payment obligation in accordance with the provisions set forth in Section 5.14.

16.4 **Enforcement of Bonded Obligations.** The Association shall have the right to enforce bonded obligations in accordance with the provisions set forth in Section 5.24.

16.5 **Disputes Involving Declarant.**

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

(a) **"Claim"** means any Construction Defect Claim or Other Claim.

(b) **"Claim Process"** means the pre-litigation process for the resolution of Construction Defect Claims and Other Claims as described in the Master Dispute Resolution Declaration.

(c) **"Construction Defect Claim"** means any claim, issue or controversy, whether or not the claim, issue or controversy is governed by or subject to the Right to Repair Act or is based upon common law, that arises from or is related in any way to any alleged deficiencies in construction, design, specifications, surveying, planning, supervision, testing, or observation of construction, including, but not limited to, any alleged violation of the standards set forth in California Civil Code Sections 895 through 897, inclusive of the Right to Repair Act.

(d) **"Dispute"** means any claim, issue or controversy that arises from or is related in any way to: (a) the Community; (b) any Residential Unit; (c) the Association Property or Offsite Maintenance Areas; (d) the relationship between the Association and Declarant; and/or (e) the relationship between any Owner and Declarant, whether contractual, statutory or in tort, including, but not limited to, claims, issues or controversies that arise from or are related to the purchase, sale, condition, design, construction or materials used in construction of any portion of the Community or any Residential Unit, Association Property or Offsite Maintenance Areas, the agreement between Declarant and Owner to purchase the Residential Unit or any related agreement, the Limited Warranty, disclosures, or alleged deficiencies in construction, design, specifications, surveying, planning, supervision, testing, or observation of construction related to Improvements within the Association Property or Offsite Maintenance Areas, or the Residential Unit, including, but not limited to, the following: (i) a Construction Defect Claim; (ii) an Other Claim; (iii) any disagreement as to whether a Construction Defect Claim has been properly repaired; (iv) any disagreement as to the value of repairing damages which are the subject of a Construction Defect Claim; (v) the cost of repairing damage caused by the repair efforts, the cost to remove or replace an improper repair, and any alleged relocation expenses, storage expenses, lost business income, investigation costs and all other fees and costs recoverable by contract or statute as a result of a Construction Defect Claim; and (vi) any disagreement concerning the timeliness of Declarant's performance or the Association's or an Owner's notification under the Limited Warranty or the Claim Process.

(e) **"Other Claim"** means a Dispute that does not involve a Construction Defect Claim.

(f) **"Right to Repair Act"** means Division 2, Part 2, Title 7 of the California Civil Code (Section 895, *et seq.*) as amended from time to time.

16.5.2 **Dispute Resolution.** Declarant has recorded a Master Dispute Resolution Declaration which sets forth the procedures that shall be used to resolve Disputes with Declarant or any Claims asserted by an Owner and/or the Association. The Master Dispute Resolution Declaration recorded in the Official Records constitutes a part of this Declaration and is incorporated herein by this reference as though set forth in full herein. For any Construction Defect Claims, the Owners and the Association shall comply with the Claims Process set forth in the Master Dispute Resolution Declaration. For any Construction Defect Claims not resolved through the Claims Process or any Other Claims, the Owners and the Association shall comply with the procedures set forth in the Master Dispute Resolution Declaration which require the Dispute to be mediated or arbitrated. Each Owner and the Association acknowledge and agree that the terms and provisions set forth in the Master Dispute Resolution Declaration are covenants running with the land which are binding upon the Owners and the Association and successor Owners.

16.5.3 **AGREEMENT TO ARBITRATE.** THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE MASTER DISPUTE RESOLUTION DECLARATION, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, INCLUDE AN ARBITRATION PROVISION. DECLARANT, EACH OWNER AND THE ASSOCIATION AGREE TO HAVE ANY DISPUTE 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, DECLARANT, EACH OWNER AND THE ASSOCIATION ARE GIVING UP ANY RIGHTS DECLARANT, EACH OWNER AND THE ASSOCIATION MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. DECLARANT, EACH OWNER AND THE ASSOCIATION ARE GIVING UP JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE PROCEDURES SET FORTH IN THE MASTER DISPUTE RESOLUTION DECLARATION. IF DECLARANT, ANY OWNER OR THE ASSOCIATION REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, DECLARANT, SUCH OWNER OR THE ASSOCIATION MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. DECLARANT'S, EACH OWNER'S AND THE ASSOCIATION'S AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

16.5.4 **CLASS ACTIONS WAIVER.** AS SET FORTH IN THE MASTER DISPUTE RESOLUTION DECLARATION, DECLARANT, OWNERS AND THE ASSOCIATION HAVE AGREED TO ARBITRATE DISPUTES UNDER THE FEDERAL ARBITRATION ACT DUE TO THE MUTUAL ADVANTAGES OF ARBITRATION OVER BRINGING AN ACTION IN COURT TO RESOLVE A DISPUTE. BUILDER, OWNERS AND THE ASSOCIATION ACKNOWLEDGE THAT CLASS ACTION CLAIMS ARE INCONSISTENT WITH ARBITRATION UNDER THE FEDERAL ARBITRATION ACT. ARBITRATION OF A CLASS ACTION DESTROYS THE ADVANTAGES OF THE ARBITRATION PROCESS SUCH AS SPEED, EFFICIENCY, AND LOWER COSTS DUE TO THE COMPLEXITIES INVOLVED IN A CLASS ACTION. FOR THESE REASONS, DECLARANT, OWNERS AND THE ASSOCIATION MUTUALLY AGREE TO WAIVE THE RIGHT TO BRING A CLASS ACTION CLAIM IN THE ARBITRATION, INCLUDING WITHOUT LIMITATION, CLAIMS BROUGHT AS A CLASS REPRESENTATIVE, CLASS MEMBER, REPRESENTATIVE ON BEHALF OF OTHERS OR PRIVATE ATTORNEY GENERAL ON BEHALF OF THE GENERAL PUBLIC. IF IT IS JUDICIALLY DETERMINED BY A COURT THAT THIS CLASS ACTION WAIVER IS UNENFORCEABLE, THEN THE CLASS ACTION CLAIM SHALL BE LITIGATED IN A COURT OF COMPETENT JURISDICTION IN LIEU OF ARBITRATION GIVEN THAT ARBITRATION IS NOT WELL SUITED FOR CLASS ACTION CLAIMS.

16.5.5 **Relinquishment of Control.** Notwithstanding any other provision in the Declaration or the Master Dispute Resolution Declaration to the contrary (including, without limitation, any provision which expressly or implicitly provides Declarant with control over Association decisions for any period of time), while the Declarant has majority control of the Board, Declarant hereby relinquishes control over the Association's ability to decide whether to initiate any Claim against Declarant or any Declarant Parties. No representative of Declarant or Declarant Parties on the Board shall vote on the initiation of any Claim including without limitation, any Construction Defect Claim under California Civil Code Section 895 et seq. of the Right to Repair Act, such that from and after the first election of directors in which Class A Members of the Association participate, Declarant and Declarant Parties shall have no control over the

Association's ability to decide whether to initiate a Claim including without limitation, any Construction Defect Claim and in the event of such a vote, the affirmative vote of the two non-Declarant representatives on the Board shall be binding so long as a quorum of the Board is present at any meeting where such vote is taken.

16.5.6 **Pursuit of Claims.** An Owner may only assert Limited Warranty claims pertaining to such Owner's Residential Unit. The Association and not the individual Owners shall have the power to pursue any Claims for the Association Property and/or Offsite Maintenance Areas. The Association and each Owner shall comply with the Claim Process in bringing any such Claims. Each Owner hereby agrees to delegate authority to the Association and assigns to the Association all power and authority as is necessary for any settlement or release of any Claim relating to the Association Property and/or Offsite Maintenance Areas.

16.5.7 **Notification to Prospective Buyers.** In the event that the Association commences a Claim pursuant to the Master Dispute Resolution Declaration, or pursues any other legal action, all Owners must notify prospective purchasers of such action or Claim and must provide such prospective purchasers with a copy of the notice produced by the Association and delivered to the Owners in accordance with California Civil Code Section 6000 and this Declaration.

16.6 **Board and Members' Approval of Certain Actions.** In the event any claim or other action is brought by the Association against a Declarant, including, without limitation, claims brought under California Civil Code Section 895, et seq., involving allegations of construction defects relating to the Association Property and/or Offsite Maintenance Areas, the Association shall not initiate a further action or arbitration proceeding without first complying with California Civil Code Section 6150. A majority of the Board members shall be required to approve of proceeding with the further claim or action; provided, however, that in the event Declarant appointees are serving on the Board, such Declarant-appointed Board members shall have no right to approve or disapprove such further action or arbitration proceeding and only the approval of a majority of the non-Declarant appointed Board members (or both non-Declarant Board members in the event there are only two (2) non-Declarant Board members), shall be required to approve of proceeding with such claim or action. In addition, to the extent the pre-requisite of a Member vote, or the imposition of any other limitation or precondition on the Board's authority to pursue such claim or action, has been duly-adopted by the Members as an amendment to this Declaration pursuant to Civil Code Section 5986(c), or to the extent a Member vote or other limitation or precondition is permitted under Applicable Law without the necessity of such an amendment first being duly-adopted by the Members pursuant to Civil Code Section 5986(c), then prior to commencing such further action or arbitration proceeding, the Association shall first satisfy such limitation or precondition to the extent that it is not otherwise prohibited by any provision of the Governing Documents (unless such provision has been expressly superseded by Applicable Law). In clarification of the foregoing, if no such amendment has been duly-adopted by the Members prior to the Board considering undertaking any claim or action pursuant to this Section, and if the Board believes in its sole discretion that waiting for the outcome of a Member vote regarding the adoption of such an amendment could be prejudicial to the Association's position relative to its pursuit of such claim or action, then the Board shall not be compelled to stay such claim or action pending the outcome of such a Member vote unless the Board chooses to do so by a majority vote of the Board or, if applicable, then the non-Declarant appointed Board members.

**Declarant hereby advises as follows: Each Owner and the Association are hereby advised that representative claims (i.e., claims related to the Association Property or Offsite Maintenance Areas or claims by the Association on behalf of the Owners) by the Association may create disclosure requirements, may result in increases to Assessments to fund such claims or actions, and may impair the ability of Owners to sell or finance their Residential Units. California Civil Code Sections 5986 and 6150 allow the Board to unilaterally decide whether to pursue legal action against Declarant. Owners are encouraged to participate in any meeting held by the Association pursuant to California Civil Code Section 6150 to ensure the Board considers all Owners' positions prior to commencing additional actions.**

16.7 **Notice Required If Reserve Funds to Pay for Litigation.** As required by California Civil Code Section 5520, if a decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall comply with the notice and accounting requirements set forth in California Civil Code Section 5520.

16.8 **Indemnification of the City.** The Association shall at its sole cost and expense, to defend, indemnify, and hold harmless, the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third-party against the City, its officers, agents, and employees, which seeks to attack, set aside, challenge, void, or annul an approval of the City Council, Planning Commission, or other decision-making body, including staff, concerning the Community. In addition, the Association shall reimburse the City for all costs incurred to enforce the City's Municipal Code and the conditions of approval imposed by this Development Review, including any attorney and court costs.

16.9 **Conflict.** In the event of any conflict between the provisions of Section 16.5 and the Master Dispute Resolution Declaration, the terms of the Master Dispute Resolution Declaration shall control.

## **ARTICLE 17 GENERAL PROVISIONS**

*This Article sets forth the general provisions which govern this Declaration.*

17.1 **Headings.** The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

17.2 **Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions of it shall not invalidate any other provisions. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Declaration shall become illegal, null, void, against public policy or otherwise unenforceable, for any reason, the remaining portions of this Declaration shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

17.3 **Cumulative Remedies.** Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver.

17.4 **Violations as Nuisance.** Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any Member of the Board, the manager, or the Association.

17.5 **No Racial Restriction.** No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of its Condominium on the basis of race, sex, color or creed.

17.6 **Access to Books.** Declarant may, at any reasonable time and upon reasonable notice to the Board or manager, cause an audit or inspection to be made of the books and financial records of the Association.

17.7 **Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

17.8 **Notification of Sale of Condominium.** Concurrently with the consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and its Mortgagee and transferor, the common address

of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to its transferor if the Board has received no notice of transfer as above provided, by certified mail return receipt requested, at the mailing address above specified. Notices shall also be deemed received on the next business day after being sent by overnight courier or upon delivery if delivered personally to any occupant of a Condominium over the age of twelve (12) years.

17.9 **Provision of Governing Documents to Prospective Purchasers.** Pursuant to California Civil Code Section 4525, as soon as practicable before the transfer of title or the execution of a real property sales contract, the Owner shall provide copies of the Governing Documents to the prospective purchaser of a Condominium.

17.10 **Number, Gender.** The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

17.11 **Exhibits.** All exhibits referred to in this Declaration are attached to this Declaration and incorporated by reference.

17.12 **Binding Effect.** This Declaration shall inure to the benefit of and be binding on the successors and assigns of Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

17.13 **Easements Reserved and Granted.** Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in the first deed by Declarant to any Condominium.

17.14 **Statutory References.** All references in this Declaration to various statutes, codes, regulations, ordinances and other laws shall be deemed to include those laws in effect as of the date of this Declaration and any successor laws as may be amended from time to time.

17.15 **U.S. Department of Veteran Affairs and FHA Approval.** For so long as (i) VA blanket loan approvals are in effect for the Community, (ii) Declarant has Class B rights pursuant to Section 4.2.2 above, and (iii) any VA loan encumbers any Condominium in the Community, the following actions shall require the prior approval of VA: (i) any reorganization, merger, dissolution, or consolidation of the Association; (ii) any amendment to this Declaration (as defined in Section 14.3 above), a draft of which shall be submitted to and approved by the VA prior to recordation; and/or (iii) any extraordinary actions. For purposes of this Section "extraordinary actions" means any of the following: (a) merging or consolidating the Association; (b) determining not to require professional management if previously required by a lender or; (c) expanding the Property to include land not described as Annexable Property if such addition increases the overall land area of the Community or number of units in the Community by more than ten percent (10%); (d) abandoning, partitioning, encumbering, mortgaging, conveying or selling or otherwise transferring or relocating the boundaries of the Association Property except as otherwise permitted by VA; (e) using insurance proceeds to purposes other than construction or repair of the insured Improvements, or (f) making capital expenditures (other than for repair or replacement of existing Improvements) during any period of twelve (12) consecutive months costing more than twenty percent (20%) of the annual operating budget. FHA shall have the same approval rights given to VA in this Section if an FHA blanket approval is in effect for the Community.

17.16 **Applicability of FHA/FNMA/VA Regulations.** For so long as FHA, FNMA and/or VA blanket loan approvals are in effect for the Community and while any FHA/FNMA/VA loan encumbers any Condominium in the Community pursuant to such blanket approval, the FHA, FNMA and VA guidelines and regulations shall apply to the Community to the extent that FHA, FNMA or VA, respectively, asserts application of such guidelines and regulations and those guidelines and regulations are not in conflict with California law or with the requirements of the DRE. At such time as the blanket loan approvals are no longer in effect and no FHA, FNMA or VA loans encumber any Condominium in the Community, the FHA, FNMA and VA guidelines and regulations shall have no further applicability with respect to the Community.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Declarant has executed this instrument as the date first written above.

**DECLARANT:**

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

By: 

Name: Scott Hansen

Title: VP, Forward Planning

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

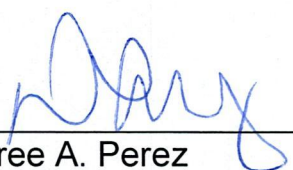
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

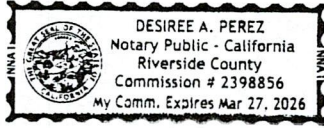
State of California }  
County of Riverside }

On OCT 21 2025, before me, Desiree A. Perez, 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.

  
\_\_\_\_\_  
Desiree A. Perez



(SEAL)

**LIST OF EXHIBITS**

EXHIBIT "A" ..... Description of Property and Association Property

EXHIBIT "B" ..... Description of Annexable Property

EXHIBIT "C" ..... Bungalow Condominium Building Maintenance Responsibility Chart

EXHIBIT "D" ..... Depiction of Association Property

EXHIBIT "E" ..... County Maintenance Areas

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF MENIFEE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEING ALL OF LOT 11, A PORTION OF LOT 12 AND A PORTION OF LOT "C" OF TRACT NO. 30266-2 PER MAP FILED IN BOOK 431, PAGES 82 THROUGH 88, INCLUSIVE OF MAPS, RECORDS OF RIVERSIDE COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID LOT 12;

THENCE NORTH 89°55'47" WEST ALONG THE NORTHERLY LINE OF SAID LOT 12, A DISTANCE OF 411.87 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0°04'13" WEST, A DISTANCE OF 134.81 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 637.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 27°55'34" WEST, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF SAID LOT 12;

THENCE SOUTH 27°55'34" EAST ALONG SAID RADIAL LINE, A DISTANCE OF 37.00 FEET A POINT ON A NON-TANGENT CURVE, CONCENTRIC WITH AND LYING 37.00 FEET SOUTHEASTERLY OF LAST SAID CURVE AND HAVING A RADIUS OF 600.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 27°55'34" WEST, ALSO BEING THE CENTERLINE OF WINCHESTER HILL DRIVE (37.00 FOOT HALF-WIDTH) AS SHOWN ON SAID TRACT NO. 30266-2;

THENCE THE FOLLOWING FOUR (4) COURSES ALONG SAID CENTERLINE OF WINCHESTER HILL DRIVE:

1. SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 6°44'31", AN ARC LENGTH OF 70.60 FEET;
2. TANGENT FROM LAST SAID CURVE, SOUTH 55°19'55" WEST, A DISTANCE OF 305.65 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 600.00 FEET;
3. SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 34°42'11", AN ARC LENGTH OF 363.41 FEET;
4. TANGENT FROM LAST SAID CURVE, NORTH 89°57'54" WEST, A DISTANCE OF 152.86 FEET TO WESTERLY LINE OF SAID LOT "C";

THENCE NORTH 0°02'06" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 37.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 12;

THENCE NORTH 89°57'54" WEST, ALONG SAID SOUTHERLY LINE OF SAID LOT 12 AND THE SOUTHERLY LINE OF SAID LOT 11, A DISTANCE OF 50.30 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 1113.00 FEET;

THENCE THE FOLLOWING TEN (10) COURSES ALONG THE SOUTHERLY, SOUTHWESTERLY, AND WESTERLY LINES OF SAID LOT 11;

1. WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 9°16'04", AN ARC LENGTH OF 180.03 FEET;
  2. TANGENT FROM LAST SAID CURVE, NORTH 80°41'50" WEST, A DISTANCE OF 351.16 FEET;
  3. NORTH 47°20'53" WEST, A DISTANCE OF 17.96 FEET;
  4. NORTH 8°48'40" EAST, A DISTANCE OF 334.91 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 522.00 FEET;
  5. NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 7°40'59", AN ARC LENGTH OF 70.00 FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 73°30'21" WEST;
  6. NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 13°38'39", AN ARC LENGTH OF 23.81 FEET;
  7. TANGENT FROM LAST SAID CURVE, NORTH 30°08'18" EAST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 66.00 FEET,
  8. NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°47'11", AN ARC LENGTH OF 49.29 FEET;
  9. NON-TANGENT FROM LAST SAID CURVE, NORTH 59°42'44" EAST, A DISTANCE OF 41.73 FEET
  10. NORTH 20°52'11" EAST, A DISTANCE OF 89.28 TO THE NORTHWEST CORNER OF SAID LOT 11;
- THENCE THE FOLLOWING THREE (3) COURSES ALONG THE NORTHERLY LINES OF SAID LOT 11 AND SAID LOT 12;
1. SOUTH 69°01'47" EAST, A DISTANCE OF 264.93 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 2260.00 FEET;
  2. SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°54'00", AN ARC LENGTH OF 824.39 FEET;
  3. SOUTH 89°55'47" EAST, A DISTANCE OF 153.10 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS PARCEL B OF NOTICE OF LOT LINE ADJUSTMENT NO. 220002, RECORDED NOVEMBER 10, 2022, AS INSTRUMENT NO. 2022-0467442 OF OFFICIAL RECORDS OF SAID COUNTY.

EXHIBIT "B"

DESCRIPTION OF ANNEXABLE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA:

A PORTION OF LOT 12 AND A PORTION OF LOT "C" OF TRACT NO. 30266-2 PER MAP FILED IN BOOK 431, PAGES 82 THROUGH 88, INCLUSIVE OF MAPS, RECORDS OF RIVERSIDE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 12;  
THENCE NORTH 89°55'47" WEST ALONG THE NORTHERLY LINE OF SAID LOT 12, A DISTANCE OF 411.87 FEET;  
THENCE SOUTH 0°04'13" WEST, A DISTANCE OF 134.81 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 637.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 27°55'34" WEST, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF SAID LOT 12;  
THENCE SOUTH 27°55'34" EAST ALONG SAID RADIAL LINE, A DISTANCE OF 37.00 FEET A POINT ON A NON-TANGENT CURVE, CONCENTRIC WITH AND LYING 37.00 FEET SOUTHEASTERLY OF LAST SAID CURVE AND HAVING A RADIUS OF 600.00 FEET, TO WHICH A RADIAL LINE BEARS NORTH 27°55'34" WEST, ALSO BEING THE CENTERLINE OF WINCHESTER HILL DRIVE (37.00 FOOT HALF-WIDTH) AS SHOWN ON SAID TRACT NO. 30266-2;  
THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID CENTERLINE, THROUGH A CENTRAL ANGLE OF 27°55'00", AN ARC LENGTH OF 292.34 FEET;  
THENCE TANGENT FROM LAST SAID CURVE, NORTH 89°59'26" EAST ALONG SAID CENTERLINE, A DISTANCE OF 114.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF LEON ROAD (76.00 FOOT HALF- WIDTH) AS SHOWN ON SAID TRACT NO. 30266-2;  
THENCE NORTH 00°06'55" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 97.11 FEET TO THE POINT OF BEGINNING.

SAID LAND IS SHOWN AS PARCEL A OF NOTICE OF LOT LINE ADJUSTMENT NO. 220002, RECORDED NOVEMBER 10, 2022, AS INSTRUMENT NO. 2022-0467442 OF OFFICIAL RECORDS OF SAID COUNTY.

**EXHIBIT "C"**

**BUNGALOW CONDOMINIUM BUILDING MAINTENANCE RESPONSIBILITY CHART**

<p>Each Owner is responsible for the maintenance, repair and replacement of all elements of the Attached Residential Unit, except as otherwise set forth below or in the Governing Documents. The Association is responsible for all of the maintenance, repair and replacement of the Association Property. Notwithstanding the foregoing, in the event of a casualty, the Association shall repair and replace all items covered by the Association's insurance. The Owner Maintenance Guide and the Association Maintenance Guide may also expand on the scope of the maintenance responsibilities set forth below.</p> <p>"O" indicates an obligation of the Owner.                  "A" indicates an obligation of the Association.                  "N/A" indicates an obligation that is "not applicable."</p>							
IMPROVEMENT	MAINTENANCE OBLIGATION & RESPONSIBLE PARTY						
	Clean	Maintain	Repair	Replace	Paint	Resurface	Repave
The interior of the Attached Residential Unit including, without limitation, all appliances, cabinets, plumbing fixtures and all other items within the Attached Residential Unit whether free-standing or built in	O	O	O	O	O	O (if applicable)	N/A
Utility Facilities and equipment which exclusively service the Attached Residential Unit whether located in the Attached Residential Unit or the Association Property	N/A	O	O	O	N/A	N/A	N/A
Windows enclosing an Attached Residential Unit, including metal frames, tracks and exterior screens of glass doors and windows	O	O	O	O	A (exterior of the window frame only)	N/A	N/A
Doors (including without limitation the garage door) enclosing an Owner's Attached Residential Unit	O	O	O	O	O to paint interior A to paint exterior	N/A	N/A
The Exclusive Use Easement Areas (excluding any walls/fences surrounding such areas)	O	O	O	O	N/A	O	N/A
Exterior lighting fixtures on Bungalow Condominium Buildings	A	A	A	A	A		
Established system of drainage within the Owner's Exclusive Use Easement Areas	O	O	O	O	N/A	N/A	N/A
All Association Property within the Bungalow Condominium Buildings including without limitation, roof, structural components, bearing walls,	A	A	A	A	A	A	A

Each Owner is responsible for the maintenance, repair and replacement of all elements of the Attached Residential Unit, except as otherwise set forth below or in the Governing Documents. The Association is responsible for all of the maintenance, repair and replacement of the Association Property. Notwithstanding the foregoing, in the event of a casualty, the Association shall repair and replace all items covered by the Association's insurance. The Owner Maintenance Guide and the Association Maintenance Guide may also expand on the scope of the maintenance responsibilities set forth below.

"O" indicates an obligation of the Owner.

"A" indicates an obligation of the Association.

"N/A" indicates an obligation that is "not applicable."

IMPROVEMENT	MAINTENANCE OBLIGATION & RESPONSIBLE PARTY						
	Clean	Maintain	Repair	Replace	Paint	Resurface	Repave
foundations, except for any Exclusive Use Easement Areas and other areas required to be maintained by the Owner as provided herein							
All Utility Facilities serving two or more Condominiums, and all private Utility Facilities located in the Association Property	N/A	A	A	A	N/A	N/A	N/A
Fences and Walls Enclosing Exclusive Use Easement Areas	O	A	A	A	A	A	N/A
HVAC unit servicing Attached Residential Unit	O	O	O	O	N/A	N/A	N/A
Fire Life Safety System	N/A	O	O	O	N/A	N/A	N/A
Submeter servicing Attached Residential Unit	N/A	O	O	O	N/A	N/A	N/A

**EXHIBIT "D"**

**DEPICTION OF ASSOCIATION PROPERTY**

All items, and location of items, shown on illustration are shown for informational purposes only and should not be relied upon for content, precise design or dimension. The actual conditions will control.

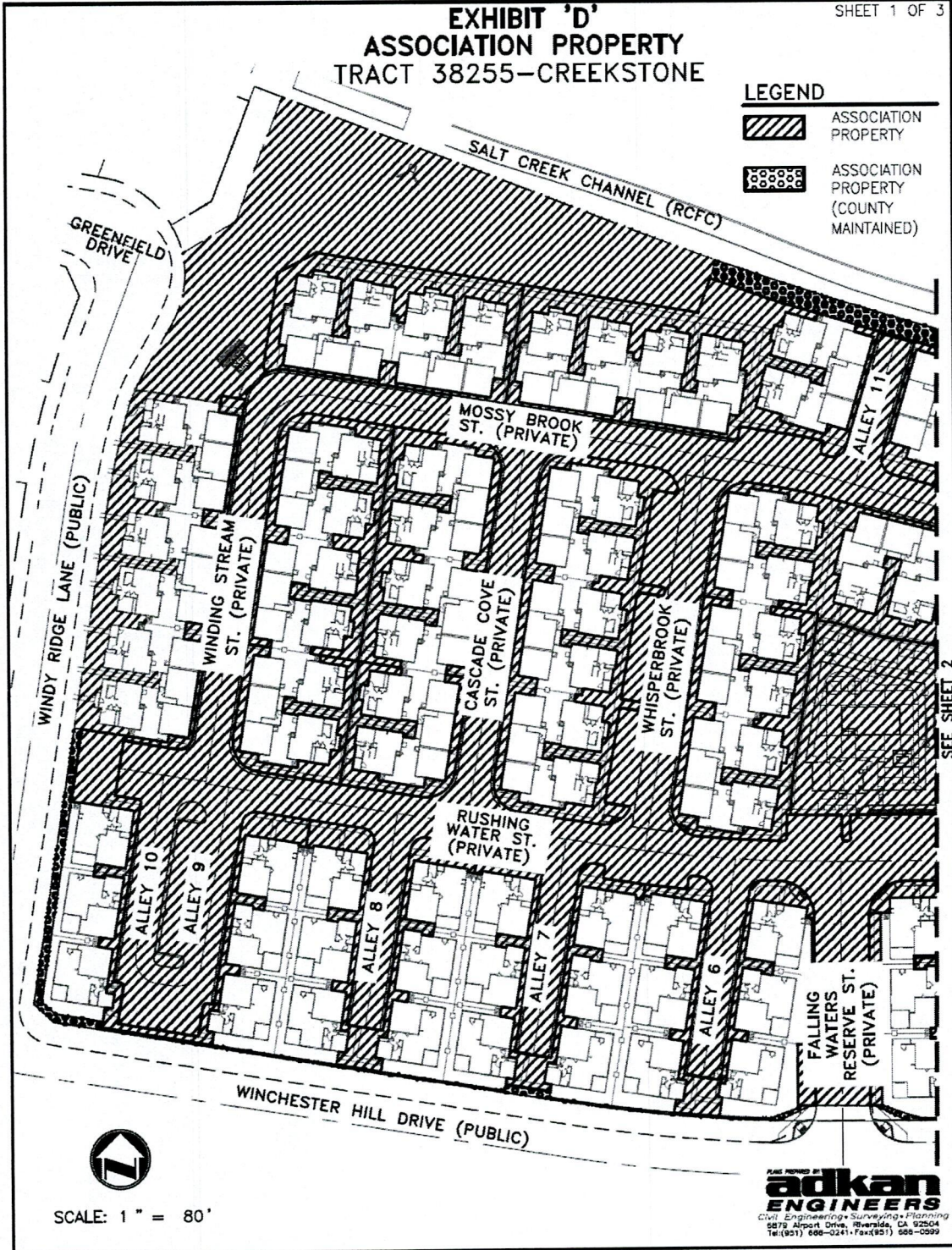
[Attached Hereto]

**EXHIBIT 'D'**  
**ASSOCIATION PROPERTY**  
**TRACT 38255-CREEKSTONE**

SHEET 1 OF 3

**LEGEND**

-  ASSOCIATION PROPERTY
-  ASSOCIATION PROPERTY (COUNTY MAINTAINED)



SEE SHEET 2

**LEGEND**

-  ASSOCIATION PROPERTY
-  ASSOCIATION PROPERTY (COUNTY MAINTAINED)

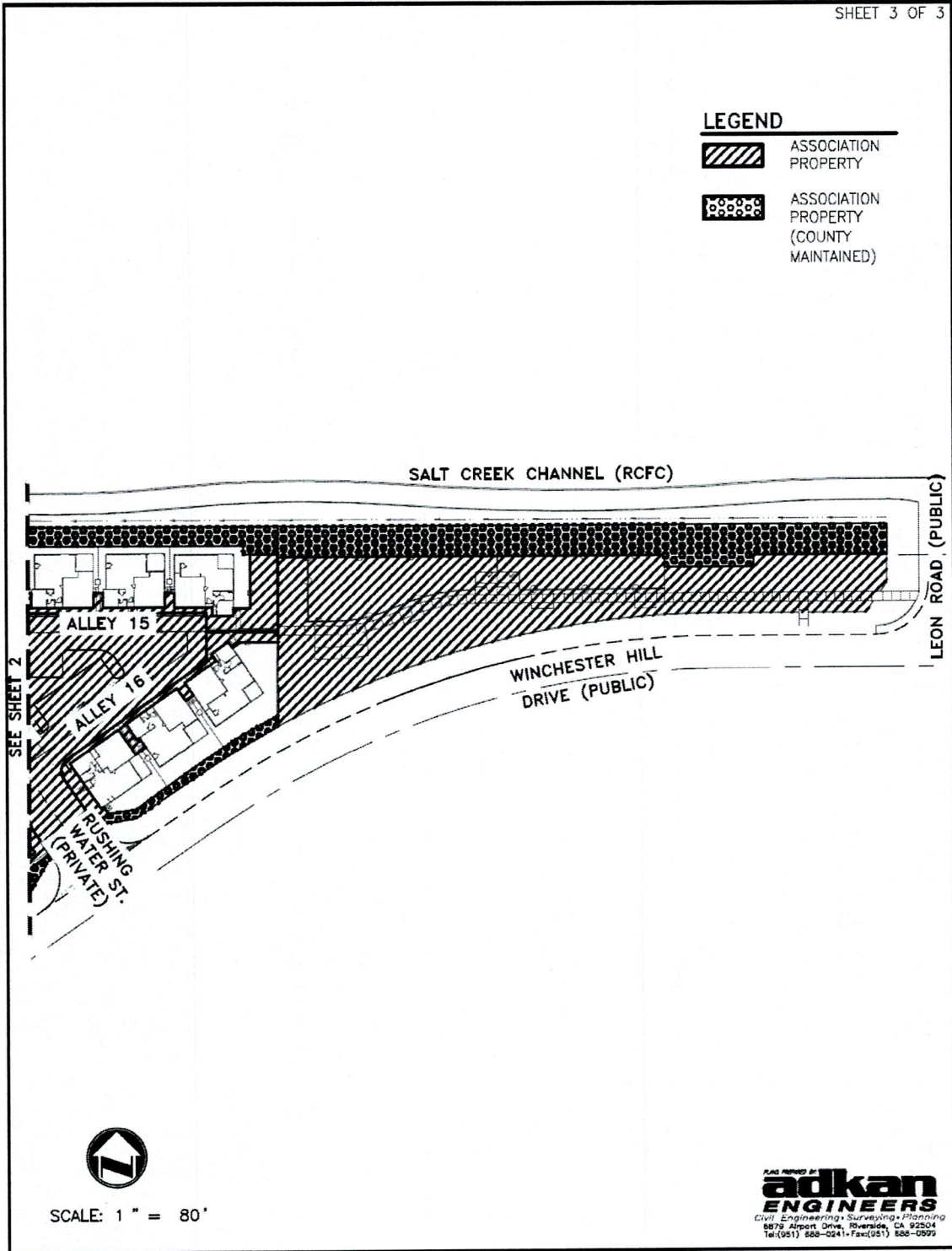


  
 SCALE: 1" = 80'

PLANS PREPARED BY  
**adkan**  
**ENGINEERS**  
 Civil Engineering • Surveying • Planning  
 6878 Airport Drive, Riverside, CA 92504  
 Tel: (951) 588-0241 • Fax: (951) 588-0999

**LEGEND**

-  ASSOCIATION PROPERTY
-  ASSOCIATION PROPERTY (COUNTY MAINTAINED)



SCALE: 1" = 80'

PLANNED BY  
**adkan**  
**ENGINEERS**  
Civil Engineering • Surveying • Planning  
8875 Airport Drive, Riverside, CA 92504  
Tel: (951) 888-0241 • Fax: (951) 888-0899

**EXHIBIT "E"**

**COUNTY MAINTENANCE AREAS**

All items, and location of items, shown on illustration are shown for informational purposes only and should not be relied upon for content, precise design or dimension. The actual conditions will control.

[Attached Hereto]

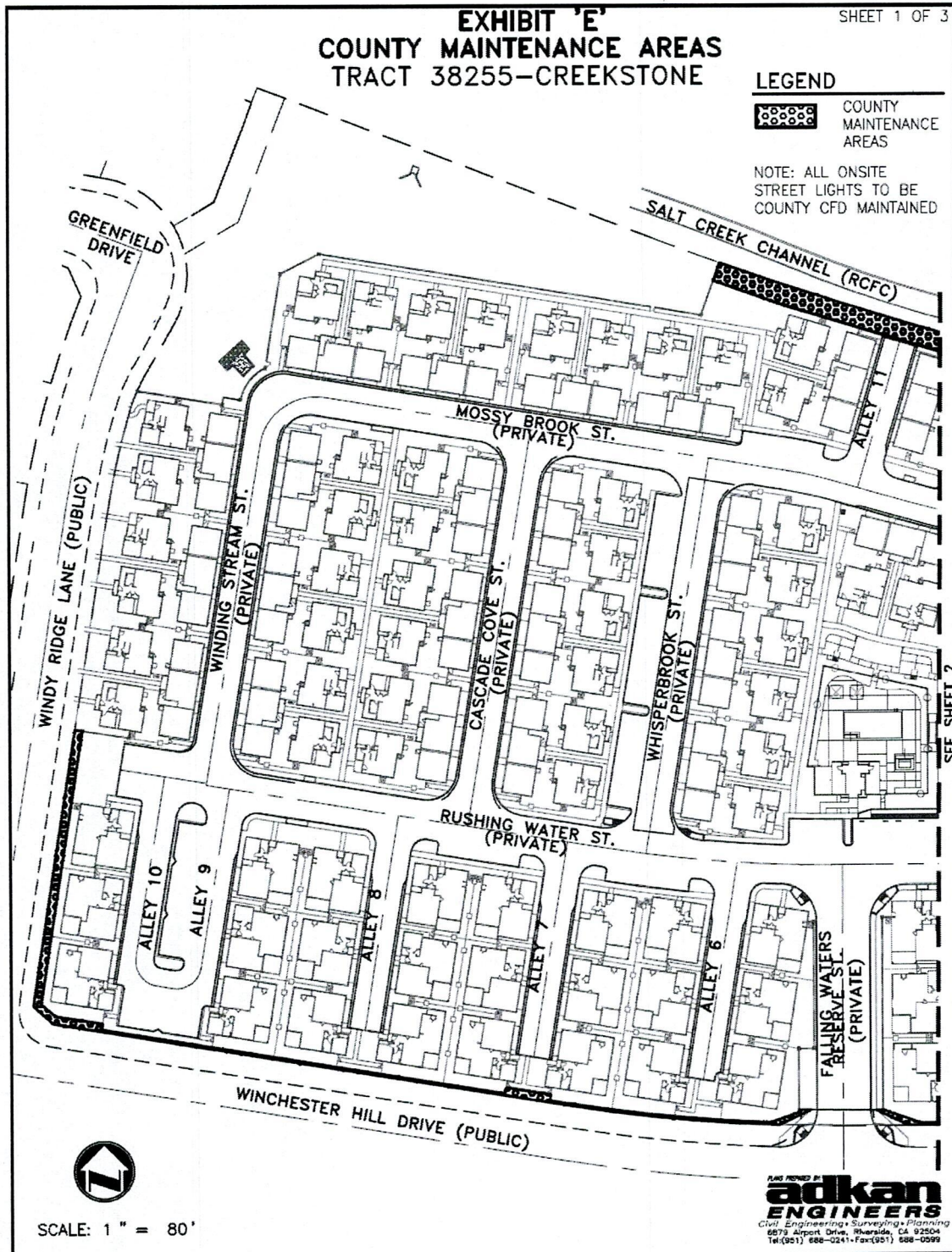
**EXHIBIT 'E'**  
**COUNTY MAINTENANCE AREAS**  
**TRACT 38255-CREEKSTONE**

SHEET 1 OF 3

**LEGEND**

 COUNTY MAINTENANCE AREAS

NOTE: ALL ONSITE STREET LIGHTS TO BE COUNTY CFD MAINTAINED



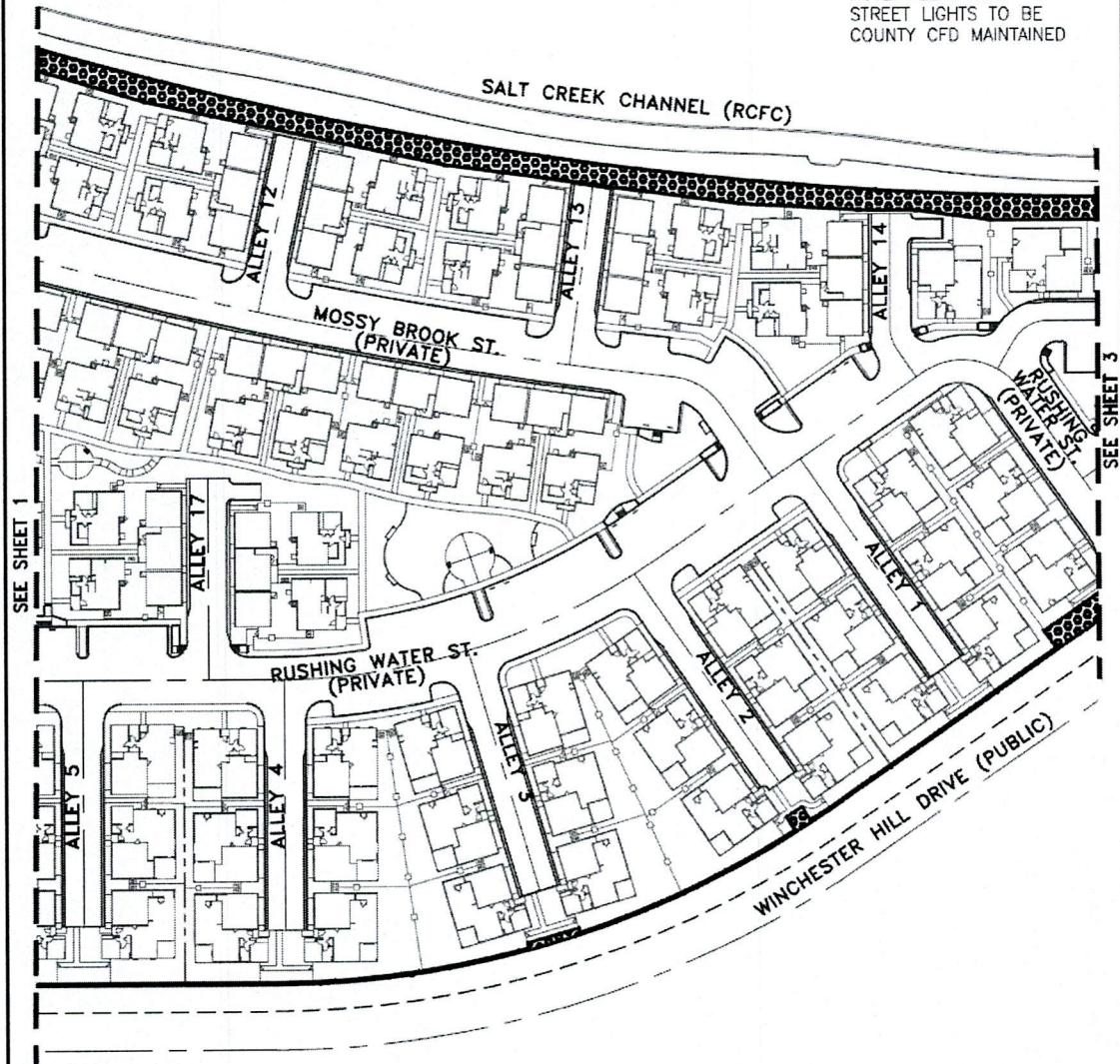
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**LEGEND**

	COUNTY MAINTENANCE AREAS
---	--------------------------------

NOTE: ALL ONSITE  
STREET LIGHTS TO BE  
COUNTY CFD MAINTAINED



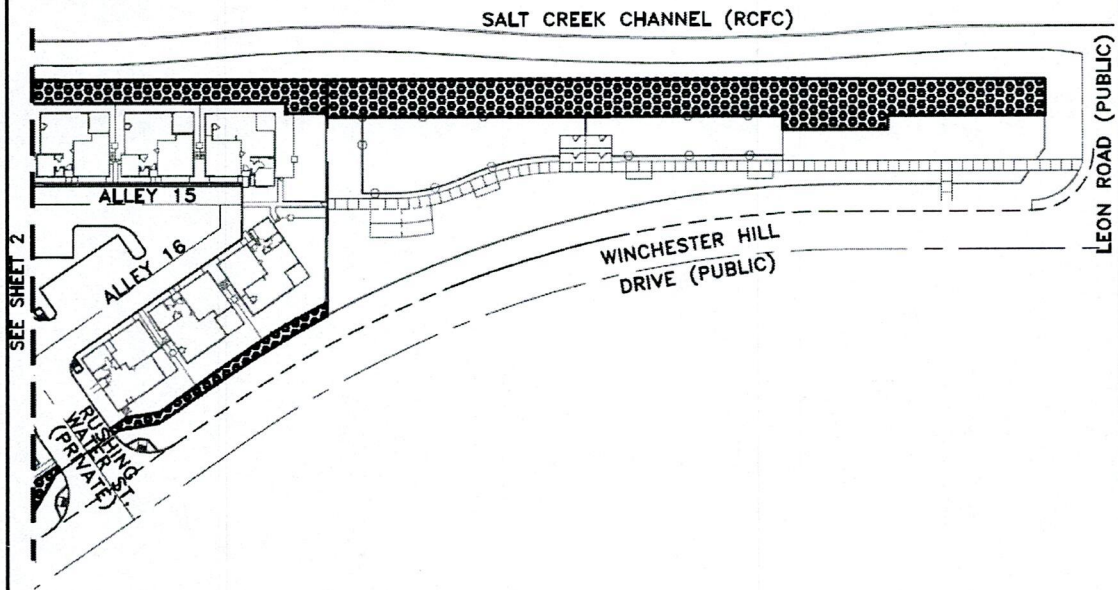
SCALE: 1" = 80'

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 Tel: (951) 688-0241 • Fax: (951) 688-0599

**LEGEND**

 COUNTY  
MAINTENANCE  
AREAS

NOTE: ALL ONSITE  
STREET LIGHTS TO BE  
COUNTY CFD MAINTAINED



SCALE: 1" = 80'

PLANS PROVIDED BY  
**adkan**  
**ENGINEERS**  
Civil, Engineering, Surveying, Planning  
6879 Airport Drive, Riverside, CA 92504  
Tel: (951) 866-0241 • Fax: (951) 866-0599

**ASSESSOR-COUNTY CLERK-RECORDER, RIVERSIDE COUNTY  
RECORDS MANAGEMENT PROGRAM  
RECORDS TRANSFER LIST, part 1**

1. Work Order #

1. Page — of —

INSTRUCTIONS: Fax completed form to (909) 358-6961 and submit original form to the Records Center with the records being transferred.

**DEPARTMENTAL INFORMATION**

3. DEPARTMENT <b>Clerk of the Board of Supervisors</b>		8. ORG.#	10. DATE <b>12/12/2025</b>
4. ORGANIZATION <b>County of Riverside</b>		9. ACCOUNT #	11. MEDIA CODE
5. ADDRESS <b>4080 Lemon St., Room 127</b>		12. NO. OF BOXES TRANSFERRED	
CITY <b>Riverside, Ca. 92501</b>		13. RECORDS TRANSFERRED BY:	
6. MAIL STOP <b>1010</b>	7. Name <b>Whitney Mayo</b> PHONE # <b>951-955-8092</b> FAX#	14. RECORDS COORDINATOR (must be Authorized):	

15. BOX # (Temp)	16. DESCRIPTION OF RECORDS Must be the same as records series title on schedule	17. RANGE OF YEARS	18. DESTRUCTION DATE	19. RECORD SERIES TITLE CODE	20. PERMANENT BOX # (Barcode label)
	<b>IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, TRACT MAP NO. 38255</b>				
	RECORDED NOVEMBER 10, 2022, AS DOCUMENT NO. 2022-0467442 AND PERFECTED BY DEED RECORDED JANUARY 4, 2023, AS DOCUMENT NO. 2023-0081868, BOTH RECORDS OF RIVERSIDE COUNTY, IN SECTION 31 OF TOWNSHIP 5 SOUTH, RANGE 2 WEST, S.B.M.				
	<b><i>BOS MEETING 12/09/2025 ITEM 2.11</i></b>				
	<b>DECLARATION OF CC&amp;Rs (CREEKSTONE)</b>				

21. RECORDS RECEIVED BY:		30. REMARKS	
22. TITLE	23. RECEIVED VIA:		
24. DATE RECEIVED:	25. TIME RECEIVED:		
26. BOXES VERIFIED BY:	27. DATE BOXES VERIFIED:		
28. NAME\DATE SCANNED TO HOLDING AREA:		29. NAME\DATE SCANNED TO LOCATION:	

2025-12-164384



# TRANSPORTATION DEPARTMENT

## FORM 11 SUMMARY/ROUTING FORM

2.11

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

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

REQUESTED BOARD DATE: 12/09/2025	CAN IT GO AT A LATER DATE: <input type="checkbox"/> YES <input type="checkbox"/> NO
----------------------------------	---

<input type="checkbox"/> AMENDMENT	NO.	<input type="checkbox"/> CHANGE ORDER	NO.
<input type="checkbox"/> RESOLUTION	NO.	<input type="checkbox"/> ORDINANCE	NO.
<input type="checkbox"/> AWARD PACKAGE	<input checked="" type="checkbox"/> FINAL MAP	<input type="checkbox"/> ACQUISITION/EDA	<input type="checkbox"/> ADVERTISEMENT PACKAGE
<input type="checkbox"/> OTHER:	SUPERVISORIAL DISTRICT: 1		

<b>PROJECT/SUBJECT:</b>
FINAL TRACT MAP NO: 38255 (Schedule "A")
DESCRIPTION: APPROVAL OF FINAL TRACT MAP

CONTRACTING PARTY: GINA NESS	W.O. NO.: FTM38255 (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

<b>SPECIAL ROUTING INSTRUCTIONS (e.g., who receives original agreements, companion item, rush, etc.):</b>
THE FINAL TRACT MAP TO BE EXECUTED BY THE CHAIR OF THE BOARD.
THE FINAL TRACT MAP AND ONE COPY OF THE TERMINATION OF CC&R'S AND ONE COPY OF CC&R'S FOR TRACT 37743 ARE TO BE DELIVERED TO THE COUNTY RECORDER.

RECEIVED RIVERSIDE COUNTY  
 CLERK/BOARD OF SUPERVISORS  
 20 DEC -5 PM 2:44

<b>MINUTETRAQ (MT) NO:</b>	<b>TRANS TRACKING ID:</b>	<b>DATE RECEIVED:</b>	<b>INITIALS:</b>
29463			

<b>BOARD AGENDA DATE:</b>	<b>BOS ITEM NUMBER:</b>
2025-12-164384	2.11

# RIVERSIDE COUNTY RECORDER

RECORDING DATE :

NUMBER
DOCS

TITLE CO ACCT: SIFI

EXAMINER

TITLE COMPANY NAME: Fidelity National Title - Jesus Duran 951-710-5913 [jesus.duran@fnf.com](mailto:jesus.duran@fnf.com)  
[SoCalMapping@fnf.com](mailto:SoCalMapping@fnf.com)

**Documents will be recorded in the order submitted**

DOCUMENT NUMBER	ORDER NUMBER	FEES	DOC	MISC.	FOR RECORDER'S USE ONLY	
					FEES	TRANSFER TAX
1	00212185		TM 38255	CC&R fill-in sheet 2	<b>RECORDER'S USE ONLY</b>	<b>RECORDER'S USE ONLY</b>
2	00212185		CC&Rs			
3						
4	No Mylar Copy					
5						
6						
7						
8						
9						
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11						
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