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

OF

SILVERWOOD

**ARTICLE 17 OF THIS COMMUNITY DECLARATION CONTAINS A JUDICIAL REFERENCE AND
ARBITRATION PROVISION. YOU SHOULD CONSULT LEGAL COUNSEL WITH ANY QUESTIONS ON
THESE OR OTHER PROVISIONS OF THIS COMMUNITY DECLARATION.**

Community Declaration of Covenants, Conditions and Restrictions and Establishment of Easements OF SILVERWOOD

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

This COMMUNITY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS OF SILVERWOOD ("**Community Declaration**") is made by SILVERWOOD DEVELOPMENT PHASE I, LLC, a Delaware limited liability company, formerly known as TAPESTRY DEVELOPMENT PHASE I, LLC, a Delaware limited liability company ("**Declarant**") with reference to the facts set forth below.

(owner)

RECITALS

All initially capitalized terms used but not defined in the Recitals shall have the meanings set forth in **Article 1** (Definitions), and to the extent such capitalized terms are not defined in this Community Declaration, such capitalized terms shall have the meaning ascribed to them in the Master Declaration.

A. The Community. Declarant is the master developer of the residential community situated in the City of Hesperia, County of San Bernardino, State of California known as "Silverwood", referred to in this Declaration as "Community". Areas surrounding the Community, but which are not subject to the Community Declaration nor part of the Community, are currently anticipated to be developed with a variety of uses, including retail and other commercial uses, together with open space, school sites, public parks, trails and other public and private amenities.

B. Property Within Silverwood. To facilitate the overall development and governance of Silverwood, Declarant is recording this Community Declaration to provide for the establishment of the Silverwood Community Association and to impose upon Silverwood covenants, conditions, restrictions and easements to benefit Silverwood. Declarant and Neighborhood Builders intend to develop Silverwood as a master planned development (as defined in Section 2792 of Title 10 of the California Code of Regulations) and as a common interest development pursuant to the Davis-Stirling Common Interest Development Act. Initially, only the portion of Silverwood described on **Exhibit A** will be subject to this Community Declaration. As additional real property within Silverwood is developed, such areas may be annexed to this Community Declaration and made subject to the jurisdiction of the Community Association. The areas which may be annexed to this Community Declaration are described on **Exhibit B**. Declarant may also designate, from time to time, other real property in the vicinity of the Community which can be annexed by recordation of Community Supplementary Declarations.

C. Silverwood Community Association. Silverwood Community Association has been or will be formed to manage and govern Silverwood and to perform certain maintenance and other obligations, including obligations imposed by Governmental Entities and the Community Entitlements and to provide certain services for the benefit of the Community. A primary responsibility of the Community Association will be to maintain the areas designated as the Community Association Maintenance Areas and Community Association Property in this Community Declaration and any Community Supplementary Declarations.

D. Members of the Community Association. All Owners, including Declarant and Neighborhood Builders, will be Members of the Community Association.

E. Master Association. In addition to being subject to the jurisdiction of the Community Association, the Property will be subject to governance by the Master Association. The Master Association has been formed to govern all of the real property subject to the Master Declaration, with the primary duty of ensuring compliance with the Settlement Agreement Covenants. The Master Association is not an "association" as described in California Civil Code Section 4080, and is not subject to the requirements imposed on "associations" by the Davis-Stirling Common Interest Development Act (Division 4, Part 5 of the California Civil Code at Sections 4000 to 6150). The Community Association and all Owners are subject to the covenants, conditions and restrictions set forth in the Master Declaration and the other Master Governing Documents. Pursuant to the terms of the Master Declaration, the Master Association is obligated to enforce compliance with the Settlement Agreement Covenants. Pursuant to the terms of this Community Declaration, the Community Association is obligated to enforce all provisions of the Master Governing

Documents, including without limitation the enforcement of the Settlement Agreement Covenants, and the Community Governing Documents, and the Community Association shall be obligated to undertake such enforcement.

F. Individual Owners Not Members of the Master Association. The Community Association is a member of the Master Association. Each Owner acknowledges and agrees that such Owner has no direct rights as a member in the Master Association and that the Community Association will represent the interests of the Owners. By accepting a deed for such Owner's Separate Interest, each Owner shall be deemed to have (a) agreed and acknowledged that the Owner has no right to vote under the Master Declaration, (b) all approvals and rights under the Master Declaration shall be exercised, if at all, by the Community Association Representative to the Master Board, and (c) that the Community Association can consent to any amendments to the Master Declaration without the consent or approval of the Owners, except as otherwise provided in the Master Declaration and the other Master Governing Documents and as set forth herein. Each Owner further acknowledges that having the Community Association as the member under the Master Declaration is a benefit to all of the Owners since it creates a uniform approach to the resolution of all issues under the Master Declaration. The Community Association, in its role as a Residential Member of the Master Association, shall act on behalf of the Owners subject to the jurisdiction of the Community Association.

G. Master Association Assessments and Community Association's Obligations. The Community Association is obligated to pay all assessments due and payable by the Community Association to the Master Association pursuant to the Master Governing Documents. In addition, the Community Association is obligated to enforce all use restrictions and covenants set forth in the Master Governing Documents, subject to the covenants, conditions and restrictions set forth herein including without limitation **Section 4.4.2** (Master Governing Documents). Each Owner, by acceptance of ownership of a Separate Interest acknowledges and agrees that payment of such assessments to the Master Association by the Community Association and enforcement of use restrictions and covenants by the Community Association is of primary importance to the continued operation and governance of the Community. As such, each Owner and the Community Association acknowledge that the Master Association has the right, but not the obligation, to enforce by any means available pursuant to Applicable Laws and as set forth herein and in the Master Governing Documents, all obligations of the Community Association to comply with its enforcement, assessment payment obligations, and all other obligations pursuant to the Master Governing Documents. Owners of a Separate Interest are advised to review the Master Declaration, and all of the other Master Governing Documents to understand the use restrictions and all other covenants, restrictions and other requirements they will be subject to as an Owner, including without limitation the Settlement Agreement Covenants.

H. Special Benefit Areas. The Community will include Special Benefit Areas. Special Benefit Area or SBA means a group of Separate Interests which (a) disproportionately benefits from the existence and maintenance of specified Community Association Property Improvements, and/or (b) receives from the Community Association specified services not provided to all Separate Interests. The Community Association's costs to maintain and operate such Improvements and to provide such services, together with the administrative costs incurred in connection with each Special Benefit Area, shall be an additional charge payable by such benefited Owners as part of their Assessments. During the development and marketing of the Community, Declarant may from time to time determine that a group of Separate Interests benefits more from certain Improvements or services than does the Community as a whole. In such event, Declarant shall designate, in applicable Community Governing Documents, the Separate Interests receiving such benefits as part of a Special Benefit Area. The Community Board may thereafter designate Special Benefit Areas under circumstances authorized in the Community Governing Documents. Special Benefit Areas may also be referred to as "cost centers" in the DRE-reviewed Budget or Public Reports affecting portions of the Community.

I. Neighborhood Declarations and Associations. In addition to this Community Declaration, some Neighborhoods within Silverwood will be governed by Neighborhood Declarations. These Neighborhood Declarations will impose additional restrictions on the Separate Interests in the affected Neighborhoods. The Neighborhood Declarations may also create Neighborhood Associations

which will be operated pursuant to their own articles of incorporation and bylaws. Owners of Residences within these Neighborhoods will be members of both the Community Association and the applicable Neighborhood Association, and will be required to pay assessments to both the Community Association and the Neighborhood Association. Some Neighborhoods within Silverwood will not be subject to a Neighborhood Association but may be subject to a Neighborhood Declaration. The Neighborhood Associations may have their own design review committees or covenant committees and may adopt their own design guidelines or rules and regulations that shall apply to each such Neighborhood. The management documents of the Neighborhood Associations may supplement or be more restrictive than the Community Governing Documents, so long as they are consistent with the scheme of governance established under the Community Governing Documents.

J. Neighborhood Builders. Neighborhood Builders will be developing Residences within the Community. Neighborhood Builders have been granted certain rights, similar to the rights of Declarant hereunder, to permit Neighborhood Builders to develop, improve, market and sell Residences within the Community.

K. Future Development of Silverwood. Silverwood will be developed over a long period of time and therefore needs to evolve to implement the goals and objectives of Declarant, Neighborhood Builders and the City and to address changes in development goals, technology, laws, and to satisfy the needs and desires of the Members and the Owners. The Community Governing Documents must be able to adapt to these changes while protecting the special features that make Silverwood distinctive and unique. This Community Declaration establishes and provides the Community Association with the powers it needs to govern, operate and maintain Silverwood as a planned residential development. This Community Declaration shall be liberally construed to effectuate its purpose of creating a flexible plan for the subdivision, maintenance, governance, development and marketing of Silverwood. To achieve these goals and to ensure a flexible governance structure, further rights, obligations, allocations, easements and other matters affecting Silverwood or portions thereof will be identified in Community Supplementary Declarations recorded in the future.

DECLARATION

NOW, THEREFORE, Declarant declares that all of the Property is, and shall be, held, conveyed, encumbered, hypothecated, leased, rented, used, occupied and improved subject to the following limitations, covenants, conditions, restrictions, easements, liens and charges, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, protection, maintenance and conveyance of all of the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value, synergy and appearance of the Property. All of the limitations, covenants, conditions, restrictions, easements, liens and charges are equitable servitudes and shall run with the Property, shall be binding on and inure to the benefit of Declarant, Neighborhood Builders, the Neighborhood Associations, the Community Association and all Owners having or acquiring any right, title or interest in the Property. It is the intention of Declarant in establishing this Community Declaration that it be liberally construed to effectuate its purpose of creating a uniform plan of operation, maintenance and governance for the benefit of all of the Community.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article shall, for all purposes of this Community Declaration, have the meanings specified below. **ALL TERMS NOT OTHERWISE DEFINED HEREIN SHALL HAVE THE MEANING SET FORTH IN THE MASTER DECLARATION, AND SUCH TERMS ARE INCORPORATED HEREIN BY REFERENCE. UNLESS THE CONTEXT OTHERWISE SPECIFIES OR REQUIRES, THE TERMS DEFINED IN THIS ARTICLE SHALL, FOR ALL PURPOSES OF THIS COMMUNITY DECLARATION AND THE OTHER COMMUNITY GOVERNING DOCUMENTS, HAVE THE MEANINGS SPECIFIED BELOW.**

1.1 “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 Community Association in collecting and/or enforcing payment of Community Assessments, and other amounts levied under this Community 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 Community Assessment or sum due, whether by suit or otherwise; (b) a late charge in an amount to be fixed by the Community Association in accordance with California Civil Code Section 5650 to compensate the Community Association for additional collection costs incurred in the event any Community 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 Interest Rate; and (e) any such other additional costs that the Community Association may incur in the process of collecting delinquent Community Assessments.

1.2 “ADU” means an accessory dwelling unit or junior accessory dwelling unit as defined in California Government Code Section 66313.

1.3 “Annexable Property” means the real property described on **Exhibit B** and any real property identified in a Community Supplementary Declaration as Annexable Property.

1.4 “Annexation” means the process by which the Annexable Property may be made subject to this Community Declaration as set forth in **Article 15** (Annexation and De-Annexation of Property).

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

1.6 “Budget” means collectively, (i) the base/general budget for the Community Association which sets forth base/general portion of the Common Expenses to be allocated among the Owners, and (ii) any Special Benefit Area Budget described in a Community Supplementary Declaration which sets forth the portion of the Common Expenses to be allocated among all the Owners within the applicable Special Benefit Area.

1.7 “City” means the City of Hesperia, California.

1.8 “CID Act” means the Davis-Stirling Common Interest Development Act, which currently is Title 6 (commencing with Section 4000) of Part 4 of Division 2 of the California Civil Code and any successor statute.

1.9 “Close of Escrow” means the date on which a deed is recorded conveying a Separate Interest in a transaction requiring the issuance of a Public Report. The term “Close of Escrow” used herein shall not apply to any transactions that are exempt from the Public Report requirement, including (a) transfer of title to real property by Declarant to any successor of Declarant or to any assignee of Declarant’s rights, or to any Neighborhood Builder, (b) transfer of title to real property between Neighborhood Builders or between a Neighborhood Builder and Declarant, (c) the transfer of title by foreclosure or other Mortgage remedy, or (d) any transfer of title for which the exemption of California Business and Professions Code Section 11010.35 is available.

1.10 “Common Expenses” means the actual and estimated costs and expenses incurred or to be incurred by the Community Association including, without limitation, the following: assessments due and payable to the Master Association pursuant to the Master Declaration; expenses for maintenance, management, operation, repair and replacement of the Community Association Property and Community Association Maintenance Areas; expenses incurred in performing the duties and obligations of the Community Association set forth in this Community Declaration and the other Community Governing Documents; expenses incurred by the Community Association in connection with implementing and performing the maintenance, inspections and other obligations of the Community Association set forth in the Community Association Maintenance Manual; expenses incurred in complying with the Community

Entitlements and Applicable Laws; expenses incurred in administering any committees formed by the Community Association; expenses incurred to cover due but unpaid Assessments; expenses for management and administration of the Community Association, including, without limitation, compensation paid by the Community Association to managers, accountants, attorneys, architects and consultants; expenses incurred in maintaining the legal status and qualifications of the Community 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 Community Association; expenses, if any, required for the maintenance of any areas required by Governmental Entities or the Community Entitlements to be maintained by the Community Association; expenses for any utilities and other services benefiting the Owners and their Separate Interests to the extent such services are paid for by the Community Association; expenses of insurance and/or fidelity bonds maintained by the Community Association; reasonable reserves as deemed appropriate by the Community Board or otherwise required pursuant to the Community Governing Documents or Applicable Laws; expenses of bonding of the members of the Community Board and any professional managing agent or any other person handling the funds of the Community Association; taxes and assessments paid by the Community Association; expenses incurred in maintaining a Special Benefit Area or providing any Special Benefit Area Services, which costs shall be included in a Special Benefit Area Budget covering such Special Benefit Area, as detailed in a Community Supplementary Declaration; expenses incurred by the Community Association for the discharge of any lien or encumbrance levied against the Community Association Property and Community Association Maintenance Areas or portions thereof; and any other expenses incurred by the Community Association in connection with the operation and/or maintenance of the Community Association Property or Community Association Maintenance Areas, or in furtherance of the purposes or the discharge of any obligations imposed on the Community Association by the Community Governing Documents and/or Master Governing Documents, or expenses designated as Common Expenses in a Community Supplementary Declaration. To the extent any Common Expenses are incurred for the benefit of a Special Benefit Area and are included in a Special Benefit Area Budget, such Common Expenses attributable to the Special Benefit Area Services will be allocated only to the Owners within the Special Benefit Area.

1.11 “Community” means all of the Property together with all Improvements situated thereon.

1.12 “Community Articles” means the Articles of Incorporation of the Community 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.

1.13 “Community Assessments” or “Assessments” means the assessments which are levied to cover the Common Expenses under **Article 6** (Assessments) or other assessments permitted to be levied by the Community Association under this Community Declaration and the other Community Governing Documents, which include the assessments described below.

1.13.1 “Capital Improvement Assessments” means the Capital Improvement Assessments that are levied by the Community Association pursuant to **Section 6.6** (Capital Improvement Assessments).

1.13.2 “Compliance Assessments” means the Compliance Assessments that are levied by the Community Association pursuant to **Section 6.7** (Compliance Assessments).

1.13.3 “Master Association Assessments” means the assessments that are levied to satisfy the amounts due from the Community Association under the Master Declaration and which are levied by the Community Association pursuant to **Section 6.9** (Master Association Assessments).

1.13.4 “Regular Assessments” means the Regular Assessments that are levied by the Community Association pursuant to **Section 6.4** (Regular Assessments). Regular Assessments include (i) “base/general” assessments allocated among all Owners, and (ii) Special Benefit Area Assessments allocated among the Owners within such Special Benefit Area, as described in **Section 6.11** (Allocation of Assessments).

1.13.5 “Special Assessments” means the Special Assessments that are levied by the Community Association pursuant to **Section 6.5** (Special Assessments)

1.13.6 “Special Benefit Area Assessments” means the assessments that are levied upon a Special Benefit Area and the Owners within the Special Benefit Area to fund the payment of Special Benefit Area Expenses and which are levied by the Community Association pursuant to **Section 6.8** (Special Benefit Area Assessments).

1.14 “Community Association” means the Silverwood Community Association, a California nonprofit mutual benefit corporation, and any successor entity.

1.15 “Community Association Maintenance Areas” means those Improvements on Separate Interests, on public property, or on other real property not owned in fee simple title by the Community Association but which are designated in the Community Governing Documents for maintenance by the Community Association. The Community Association Maintenance Areas will be designated and/or depicted in Community Supplementary Declarations and/or the Community Maintenance Exhibit. The obligation to maintain any of the Community Association Maintenance Areas in a particular Phase shall not commence until after the commencement of Assessments in the Phase, notwithstanding its description or depiction in a Community Supplementary Declaration and/or the Community Maintenance Exhibit. Any description or depiction of Community Association Maintenance Areas is intended for illustrative purposes only and the actual “as-built” condition shall be controlling. The Community Association Maintenance Areas may include one or more of the following: (i) landscaping and irrigation on real property not owned by the Community Association; (ii) public right-of-way landscaping and irrigation in the parkways and medians abutting the Community; and (iii) any other Improvement designated as Community Association Maintenance Areas in this Community Declaration or a Community Supplementary Declaration. Declarant shall have the right, but not the obligation to record Community Maintenance Exhibits for all or a portion of the Community. A Community Maintenance Exhibit for the Property is attached hereto as **Exhibit C**, as may be modified or supplemented in a Community Supplementary Declaration.

1.16 “Community Association Property” means all real property owned from time to time, in fee title by the Community Association, whether annexed into this Community Declaration or not. Upon conveyance to the Community Association, the Community Association Property within the initial Property subject to this Community Declaration will consist of the real property identified as Community Association Property on **Exhibit A**. The Community Association Property within any property which is subsequently annexed into this Declaration shall be described in Community Supplementary Declarations and may be depicted in the Community Maintenance Exhibit.

1.17 “Community Association Representative” means the representative of the Community Association, who is the president of the Community Association, who serves on the Master Board on behalf of the Community Association as provided in the Master Declaration. The Community Association Representative is the Residential Member, as defined in the Master Declaration, who shall act as a representative of the Community Association under the Master Governing Documents.

1.18 “Community Board” means the board of directors of the Community Association.

1.19 “Community Bylaws” means the bylaws of the Community Association and any amendments thereto.

1.20 “Community Covenant Committee” means the Community Covenant Committee that may be established pursuant to the terms set forth in this Community Declaration and empowered to enforce the Community Governing Documents.

1.21 “Community Declaration” means this Community Declaration of Covenants, Conditions and Restrictions and Establishment of Easements of Silverwood as said Community Declaration may from time to time be amended, restated or supplemented.

1.22 “Community Design Guidelines” means the design criteria adopted by the Community Board pursuant to **Article 8** (Design Review).

1.23 “Community Design Review Committee” means the committee which may be appointed pursuant to **Article 8** (Design Review).

1.24 “Community Entitlements” means, collectively, (a) the Tapestry Specific Plan adopted February 2, 2016, as may be amended or supplemented (“**Specific Plan**”), (b) the Final Specific Plan Program Environmental Impact Report and Phase I Project Environmental Impact Report dated as of July 2015, as may be amended or supplemented, and (c) all other 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 Maps, development agreements, conditions of approval and project permits.

1.25 “Community Governing Documents” means collectively this Community Declaration, the Community Articles, Community Bylaws, Community Design Guidelines, Community Rules and any Community Supplementary Declarations.

1.26 “Community Maintenance Exhibit” means that certain exhibit on file with the property manager for the Community that generally depicts the Community and those certain portions thereof which will be maintained by the Community Association, a Neighborhood Association, or by the City or other parties. The Community Maintenance Exhibit will be updated by Declarant from time to time, as development within the Community progresses and shall describe and/or depict the respective maintenance obligations as of the date specified thereon. At such time as the Community has been fully developed, Declarant may cause to be prepared a composite final Community Maintenance Exhibit for the overall Community and shall have the absolute right, but not the obligation, to cause such final exhibit to be recorded as a supplement to this Community Declaration in the Official Records.

1.27 “Community Maintenance Manual” means the maintenance manual which may be provided by Declarant or a Neighborhood Builder to the Community Association which sets forth the Community Standards and obligations and schedules for the maintenance and preservation of the Improvements situated within the Community Association Property and the Community Association Maintenance Areas by the Community Association, as updated and amended from time to time by Declarant, Neighborhood Builder or the Community Board, pursuant to the terms of the Community Governing Documents.

1.28 “Community Manager” or “Community Management Company” Community Management Company means the entity that is retained by the Community Association to provide professional management services to the Community Association and the Property. Community Manager means the person employed by the Community Management Company as the professional manager for the Community Association.

1.29 “Community Rules” means the rules and regulations adopted by the Community Board from time to time.

1.30 “Community Standards” means the higher of the following standards: (a) the standards established by the City in the Community Entitlements for the operation and maintenance of the Community, (b) the standards and quality required to maintain, repair and restore the Community Association Maintenance Areas, Community Association Property and any other applicable portions of the Property to the condition that existed as of the date the Residences and other Improvements within an area were first completed, (c) the standard required to maintain the Community Association Property and Community Association Maintenance Areas and the applicable portion of the Property to the level contemplated under the Community Entitlements, and (d) the standards set forth in the applicable maintenance manual.

1.31 “Community Supplementary Declaration(s)” means those certain Community Supplementary Declarations of Silverwood, or similar instruments, which may be recorded pursuant to this

Community Declaration, without the consent of any Owner or Neighborhood Association, by Declarant or Neighborhood Builder (with Declarant's written consent), to do any or all of the following: (a) annex all or a portion of the Annexable Property and impose additional covenants and restrictions or make such other complementary additions and/or modifications necessary to reflect the different character of the real property to be annexed, (b) prior to Annexation, delete any portion of the Annexable Property from the description of the Annexable Property, or after Annexation, de-annex any portion of the Property pursuant to **Article 15** (Annexation and De-Annexation of Property), (c) designate an area or portion thereof as a Phase or Neighborhood, (d) designate any additional real property to be included within the Annexable Property, (e) designate Private Streets, and certain other areas designated herein, (f) identify Community Association Property, Community Association Maintenance Areas or other areas to be maintained by the Community Association and/or make modifications or supplements to any areas designated for maintenance by the Community Association, a Neighborhood Association or any Owner, (g) identify Special Benefit Areas and/or Special Benefit Areas Services; (h) conform this Community Declaration or any previously recorded Community Supplementary Declarations to Applicable Laws or any conditions of approval imposed by any Governmental Entity or Community Entitlements, (i) conform this Community Declaration and other Community Governing Documents to the requirements of any Federal Agencies, and notwithstanding anything to the contrary set forth in this Community Declaration, impose obligations or covenants if required by the Federal Agencies without the prior consent of any Owner or Neighborhood Association, (j) memorialize any exemptions or variances which may have been granted by Declarant to any portion of the Property, (k) supplement or modify any of the exhibits to this Community Declaration or any previously recorded Community Supplementary Declarations, (l) make corrections to the provisions of this Community Declaration or any previously recorded Community Supplementary Declaration(s), and (m) for any of the other purposes for which a Community Supplementary Declaration may be recorded under this Community Declaration. Community Supplementary Declarations may also be recorded by Declarant or Neighborhood Builders (with the prior consent of Declarant) 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 Community Supplementary Declaration may be recorded as set forth herein or in the other Community Governing Documents in which case no such consent shall be required.

1.32 “Condominium” means a condominium within the Property established under California Civil Code Section 4125, but excludes any condominium defined as a Lot for purposes of this Community Declaration.

1.33 “Condominium Common Area” means volumes of airspace or other portions of real property within a Condominium Project designated as such in a Condominium Plan and owned by the Owners of Condominiums described in the Condominium Plan in undivided interest as tenants in common. The Condominium Common Area is not Community Association Property.

1.34 “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.

1.35 “Condominium Project” means a “condominium project” as defined in California Civil Code Section 4125, and including all the real property therein designated a “unit” or Condominium Unit, Condominium Common Area or part of the Neighborhood Association Property in the applicable Condominium Plan(s) for such Condominium Project. A Condominium Project may also include additional real property not described in a Condominium Plan; such property shall be designated a part of the Neighborhood Association Property or Community Association Property in the applicable Neighborhood Declaration. Each Condominium Project may be subject to the jurisdiction of a Neighborhood Association operating under a Neighborhood Declaration.

1.36 “Condominium Unit” means the unit of a Condominium, which is a Separate Interest shown and described on a Condominium Plan.

1.37 **"County"** means the County of San Bernardino, California.

1.38 **"Conversion Date"** means and refers to the date of the first to occur of any of the following events:

1.38.1 Ninety-five percent (95%) of fifteen thousand six hundred sixty-three (15,663) Separate Interests, which number is based on the currently estimated total number of Separate Interests proposed for development in the Community as of the date of recordation of this Community Declaration, have been conveyed to Class A Members (i.e. fourteen thousand eight hundred eighty (14,880) Separate Interests, calculated as follows: 95% x 15,663 Separate Interests);

1.38.2 The fifth (5th) anniversary of the first Close of Escrow for the sale of a Separate Interest pursuant to the original issuance by the DRE of the most recently issued Public Report for a Phase of the Community;

1.38.3 The twenty-fifth (25th) anniversary of the first Close of Escrow for the sale of a Separate Interest to a Class A Member pursuant to a Public Report issued by the DRE for any portion of the Property (the **"Anniversary Date"**); provided however that if on the Anniversary Date, at least eight thousand (8,000) Separate Interests have been conveyed to Class A Members, the Anniversary Date shall automatically be extended for a period of ten (10) years to the thirty-fifth (35th) anniversary of the first Close of Escrow for the sale of a Separate Interest to a Class A Member pursuant to a Public Report issued by the DRE for any portion of the Property.

1.39 **"Declarant"** means SILVERWOOD DEVELOPMENT PHASE I, LLC, a Delaware limited liability company, formerly known as TAPESTRY DEVELOPMENT PHASE I, 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.

1.40 **"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 representatives of Declarant. For purposes of **Article 17** (The Right to Repair Law, Construction/Design Defects and Other Disputes), Declarant Parties also include any contractor, subcontractor, design professional or agent of Declarant and Neighbor Builders.

1.41 **"Declarant's Rights Termination Date"** means the earlier of: (a) the date Declarant, a Declarant Party or any Neighborhood Builder no longer own any portion of the Property or Annexable Property, or (b) the date Declarant's Class C voting rights expire as set forth in **Article 5** (Membership and Voting Rights in Community Association).

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

1.43 **"Eligible Holder"** means any Mortgagee who has given written notice to the Community Association specifying its name and the address of the Separate Interest 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 Community Declaration.

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

1.45 “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”), Government National Mortgage Association (“GNMA”), and United States Department of Veterans’ Affairs (“VA”).

1.46 “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.

1.47 “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 Separate Interest in the Community.

1.48 “First Mortgagee” means the Mortgagee of a First Mortgage.

1.49 “First Owner” means the Owner of a Separate Interest who acquired the Separate Interest under authority of a Public Report from Declarant or a Neighborhood Builder.

1.50 “Fiscal Year” means the fiscal accounting and reporting period of the Community Association selected by the Community Board.

1.51 “Fuel Modification Plan” means any fuel modification plan(s), fire protection plan(s) and/or other similar document(s) that may be imposed by the San Bernardino County Fire Department (“SBCFD”) or other Governmental Entity on any portions of the Community or Annexable Property, that establishes, among other things, the Fuel Modification Zones for portions of the Community, the respective maintenance standards for each Fuel Modification Zone and any other fire protection requirements applicable to a portion of the Community, which may include applicable building code requirements. A Fuel Modification Plan may be amended, modified and/or supplemented from time to time by the SBCFD or other applicable Governmental Entity. A copy of the Fuel Modification Plan(s) shall be on file with the Community Manager.

1.52 “Fuel Modification Zones” is a generic term that includes various zones established by the SBCFD or other applicable Governmental Entity for designated portions of the Community and/or Annexable Property, as more particularly described and/or depicted in a Fuel Modification Plan, for the purpose of retarding the spread of wildfires from natural open space areas into the residential areas in the Community. A Fuel Modification Zone may include, without limitation, a designated portion of a Separate Interest, a portion of the Community Association Property and/or a portion of Neighborhood Association Property, as applicable, that is subject to specific fire protection restrictions, which may include, without limitation: (i) types of Improvements (including plant species) that are prohibited in the Fuel Modification Zone; (ii) species of drought-tolerant and fire-resistant plants that shall be planted and maintained in the Fuel Modification Zone; (iii) maintenance requirements applicable to the Fuel Modification Zone (including, without limitation, irrigation standards and landscape standards, including the thinning/pruning of healthy vegetation and removal of dead or dying vegetation) which must be complied with by the Community Association on portions of the Community Association Property, by a Neighborhood Association on portions of its Neighborhood Association Property and/or by an Owner on his or her respective Separate Interest; and (iv) other applicable fire protection requirements. There are no Fuel Modification Zones for the Property. The Fuel Modification Zones for Annexable Property will be depicted in Community Supplementary Declarations.

1.53 “Governmental Entities” means any federal, state, county, city, 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.

1.54 “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.*, and any applicable state, local or federal laws and the regulations adopted under these Acts.

1.55 “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, garages, roads, sidewalks, pathways, 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, water softeners, 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, landscaping, planting, clearing or removing of trees, shrubs, grass or plants; (c) all drainage systems; and (d) change or alteration of any previously installed Improvement including any change of exterior appearance color or texture. The Community Design Guidelines may identify additional items that are Improvements which require approval of the Community Design Review Committee or Community Board.

1.56 “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 Community Board in a recorded instrument that is the Mortgagee of a Mortgage or the beneficiary of a deed of trust encumbering a Separate Interest.

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

1.58 “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.

1.59 “Lease” means each lease whereby a Person acquires rights to use or occupy a Separate Interest for a specified term.

1.60 “Lessee” means any tenant or lessee occupying a Separate Interest with a Lease.

1.61 “Limited Warranty” means the Limited Warranty provided by Declarant or a Neighborhood Builder to the First Owner and/or the Association.

1.62 “Lot” means (a) any separate legal lot of real property shown on a Final Map, which lot is improved with a single Residence and (b) any volume of real property not entirely within a building as shown on a Condominium Plan (a “site condominium”). A Lot is a Separate Interest under the Community Governing Documents. Parcels of Community Association Property, parcels of real property dedicated to the City or to any other Governmental Entity, and parcels of real property owned in fee simple title by a Neighborhood Association are also designated as “lots” on the Final Maps describing the Community, but they are not Separate Interests for purposes of interpreting the covenants, conditions and restrictions applicable to Separate Interests in the Community Governing Documents.

1.63 “Maintenance” or “Maintain” whether capitalized or not means maintain, repair and replace unless otherwise specified in this Community Declaration.

1.64 “Maintenance Obligations” means the obligations of the Community Association, each Neighborhood Association, and each Owner to perform: (a) all reasonable maintenance consistent with the

terms of the Community Maintenance Manual or Owner Maintenance Manual, as applicable; (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 Community 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 Community Association Property, Community Association Maintenance Areas and Separate Interests, as applicable; and (d) any maintenance obligations imposed by the Community Governing Documents or Governmental Entities, including without limitation any maintenance obligations for any Fuel Modification Zone(s) as provided in any Fuel Modification Plan.

1.65 “Master Association” means the Silverwood Master Association, a California nonprofit corporation (formed pursuant to the California Non Profit Mutual Benefit Corporation Law or successor statutes), and its successors-in-interest.

1.66 “Master Declaration” means the Master Declaration of Covenants, Conditions and Restrictions and Establishment of Easements of Silverwood as said Master Declaration may from time to time be amended, restated or supplemented.

1.67 “Member” means every Person who holds a membership in the Community Association.

1.68 “Mortgage” means a recorded mortgage or deed of trust encumbering a Separate Interest in the Community.

1.69 “Mortgagee” means a mortgagee under a Mortgage as well as a beneficiary under a deed of trust.

1.70 “Neighborhood” means an area within the Community composed of Separate Interests typically built by a single Neighborhood Builder and marketed under one marketing name, and designated as a Neighborhood in a Community Supplementary Declaration.

1.71 “Neighborhood Association” means any California nonprofit corporation or unincorporated association, or its successors, established in connection with a Neighborhood Declaration to govern a Neighborhood, the membership of which is composed of the Owners of Separate Interests that are made subject to the Neighborhood Declaration. The Master Association and the Community Association are not Neighborhood Associations.

1.72 “Neighborhood Association Property” means real property owned in fee title or by easement by a Neighborhood Association. The Neighborhood Association Property in each Neighborhood of the Community may be designated by Declarant, or by Declarant and a Neighborhood Builder as Neighborhood Association Property in the applicable Community Supplementary Declaration, and by Declarant or the Neighborhood Builder (as applicable) in Neighborhood Governing Documents. References to Neighborhood Association Property are references to Neighborhood Association Property as a whole and to portions thereof.

1.73 “Neighborhood Builder(s)” means any Person designated by Declarant as a Neighborhood Builder in a recorded document. Declarant intends to designate the following Persons as Neighborhood Builders: Persons who acquired any portion of the Property or Annexable Property for the purpose of developing such portion for resale or lease to the general public. Declarant may designate a Person performing construction solely on Neighborhood Association Property or Community Association Property as a Neighborhood Builder. The term “Neighborhood Builder” does not include Declarant. Each Neighborhood Builder is a “builder” as described in California Civil Code Section 6000.

1.74 “Neighborhood Builder Disputes” means any claim or controversy, in which the parties are limited to one or more Owners or a Neighborhood Association, on the one hand, and a Neighborhood Builder (or any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of Neighborhood Builder), on the other hand. Each

Neighborhood Builder may adopt its own process for the disposition of Neighborhood Builder Disputes by complying with this Community Declaration.

1.75 “Neighborhood Builder Party” or “Neighborhood Builder Parties” means any Neighborhood Builder 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 such Neighborhood Builder.

1.76 “Neighborhood Declaration” means any declaration of covenants, conditions and restrictions which affects solely a portion of the Property and which may, but is not required to, establish a Neighborhood Association. This Community Declaration and any Community Supplementary Declaration recorded pursuant to this Community Declaration and the Master Declaration are not Neighborhood Declarations. Any reference to Neighborhood Declaration shall also mean any Neighborhood Supplementary Declaration recorded thereto.

1.77 “Neighborhood Governing Documents” means a Neighborhood Declaration and any bylaws, articles of incorporation, rules, architectural/design guidelines, Neighborhood Supplementary Declarations and other governing instruments of a Neighborhood Association. Not all Neighborhoods in the Community will be subjected to Neighborhood Governing Documents.

1.78 “Neighborhood Supplementary Declaration” means a recorded instrument solely affecting a Neighborhood or a portion thereof, that imposes conditions, covenants, or restrictions or reserves easements in addition to the conditions, covenants, restrictions and easements established in the Neighborhood Declaration. A Neighborhood Supplementary Declaration may supplement the Neighborhood Declaration, or it may annex real property to the coverage of the Neighborhood Declaration, or both. A Neighborhood Supplementary Declaration is not a Community Supplementary Declaration.

1.79 “Notice and Hearing” means the procedure that gives an Owner notice of an alleged violation of the Community Governing Documents and the opportunity for a hearing before the Community Board.

1.80 “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.

1.81 “Official Records” means the official public records of the County Recorder of San Bernardino County.

1.82 “Owner” means the record owner, whether one or more Persons, including Declarant or a Neighborhood Builder of any Separate Interest, excluding those having such interest merely as security for the performance of an obligation, unless and until such Person acquires fee title thereto.

1.83 “Owner Maintenance Manual” means the manual prepared by a Neighborhood Builder setting forth the standards and requirements for the maintenance by an Owner of the Separate Interest and other Improvements. The Owner Maintenance Manual may also be referred to as the “**Homeowner Manual**” or “**Homeowner Maintenance Manual**” in other related documents.

1.84 “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.

1.85 “Phase” means each of the following: (i) that portion of the Property which is the subject of a separate Public Report, unless otherwise defined in a Community Supplementary Declaration, and (ii) if no Public Report is issued and there is not Phase designation in a Community Supplementary Declaration for a portion of the Property, then all of the real property annexed pursuant to that Community Supplementary Declaration shall be a Phase.

1.86 “Private Streets” means those streets, roads, and/or drives, and lighting Improvements, parkway, sidewalk and other corresponding infrastructure, private drainage, pollution control devices, sewage and water systems and other utility installations within such streets, roads, drives and sidewalks, if any, which are owned or maintained by either the Community Association or a Neighborhood Association, if any, including any Private Streets located in a Special Benefit Area. Private Streets may be designated in this Community Declaration, Community Supplementary Declarations, and/or Neighborhood Declarations.

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

1.88 “Public Report” means the final subdivision public report issued by the DRE for a Phase in the Community.

1.89 “Residence” means each residential dwelling and any other improvements situated within each Separate Interest in the Community.

1.90 “Residential Area” means the real property within the Community developed as single-family homes and/or Condominiums.

1.91 “Right to Repair Law” means California Civil Code Sections 895 through 945.5, and any successor statutes.

1.92 “Right to Repair Law Claim” Right to Repair Law Claim means any claim brought by one (1) or more Owners, a Neighborhood Association or by the Community Association against one or more Declarant Parties on any design or construction defect matters that are governed by the Right to Repair Law.

1.93 “Separate Interest” means both, a separate legal lot of real property shown on a Final Map, which is improved with a single Residence, and a Condominium Unit as shown on a Condominium Plan.

1.94 “Special Benefit Area or SBA” means a group of Separate Interests which: (a) disproportionately benefits from the existence and maintenance of specified Community Association Property Improvements, and/or (b) receives from the Community Association specified services or programs not provided to all Separate Interests. The Community Association's costs to maintain and operate such Improvements and to provide such services or programs, together with the administrative costs incurred in connection with each Special Benefit Area, shall be an additional charge payable by such benefited Owners as part of their Assessments. During the development and marketing of the Community, Declarant may from time to time determine that a group of Separate Interests benefits more from certain Improvements or services than does the Community as a whole. In such event, Declarant shall designate, in applicable Community Governing Documents, the Separate Interests receiving such benefits as part of a Special Benefit Area. The Community Board may thereafter designate Special Benefit Areas under circumstances authorized in the Community Governing Documents. Special Benefit Areas may also be referred to as “cost centers” in the DRE-reviewed Budget or Public Reports affecting portions of the Community.

1.95 “Special Benefit Area Budget” means those elements of the Budget which itemize the portion of the Common Expenses and cost components to be assessed against portions of the Property within a Special Benefit Area, as provided in this Community Declaration and the other Community Governing Documents. A Special Benefit Area Budget may include without limitation the estimated or actual costs and expenses incurred by the Community 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.

1.96 "Special Benefit Area Expenses" means that portion of the Common Expenses incurred in maintaining a Special Benefit Area or providing any Special Benefit Area Services.

1.97 "Special Benefit Area Rules" means any rules established by the Community Association applicable to a Special Benefit Area.

1.98 "Special Benefit Area Services" means those services or maintenance obligations provided by the Community Association for a Special Benefit Area described in a Community Supplementary Declaration.

1.99 "Storm Water and Drainage Improvements" means any private storm drain and water quality protection improvements and systems including, without limitation, below ground drain lines, area drains, earthen or concrete drainage swales or catch basins, detention and storm water basins and other pollution control devices located within the Property which are required to be maintained by the Community Association.

1.100 "Telecommunications Facilities" means systems, equipment, Improvements, wiring and services for cable television, communications, telecommunications, antenna, high-speed data, telephone and all related intranet, internet, information transfer, transmission, video and other similar services and any technological evolutions of the foregoing.

1.101 "Utility Facilities" means all utility facilities serving the Property including without limitation, electrical, irrigation, water lines, recycled water lines, sewer lines and all other utility systems and facilities reasonably required to service any Improvements situated in, on, or under the Property.

1.102 "Voting Power" means the voting power of the Community Association set forth in **Section 5.2** (Number of Votes).

1.103 "Water District" means the City of Hesperia Water District. Provisions describing the use of Water District recycled water for all residential landscaping and Community Association Property and Community Association Maintenance Area landscaping, and describing Water District's requirements for the design, approval, installation, inspection, maintenance and management of recycled water irrigation systems used by Owners and the Community Association, are contained in **Sections 2.17.1** (Recycled Water Irrigation), **2.23** (Recycled Water) and **7.4.1(h)** (Recycled Water Irrigation System) of this Community Declaration.

ARTICLE 2 USE RESTRICTIONS

This Article establishes limits on the Residences in the Residential Area. In addition to the Community Board, the Community Covenant Committee, if and when formed, has the power to enforce these restrictions. The Residential Area shall be held, used and enjoyed subject to the following restrictions.

Neighborhood Declarations may establish supplementary or more restrictive use restrictions for the property they encumber, so long as the restrictions are consistent with the scheme of governance established in this Community Declaration and any applicable Community Supplementary Declaration. To be effective, amendments to Neighborhood Declaration use restrictions must be approved by the Community Board. Community Supplementary Declarations may add use restrictions or replace the use restrictions contained in this Article for the property the applicable Community Supplementary Declaration encumbers.

2.1 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. In no event shall

poultry, livestock or other farm animals (including, without limitation, goats and chickens) be kept within the Community. No Owner of a Separate Interest shall keep or allow to be kept: (a) more than a total of two (2) dogs; (b) any dogs which, in the reasonable determination of the Community Board, are determined to be a threat to the safety of the Occupants, which shall not be allowed under any circumstances; or (c) more than two (2) cats, or a combination of dogs and cats that does not to exceed three (3) dogs and cats in total within such Owner's Separate Interest; provided however, that if the Owner's Separate Interest is zoned as Multifamily, Medium Density Residential, or High Density Residential, a combination of dogs and cats will be allowed to the extent the number of dogs and cats does not exceed two (2) dogs and cats in total. Domestic reptiles, birds, rodents and fish shall be permitted in reasonable numbers so long as such animals are kept in the interior of a Residence. If an Owner keeps any birds, the birds shall not be heard outside of the Residence. No animal shall be permitted to be maintained, at any time, within any recreational areas situated within the Community, provided however, that animals may be allowed in recreational areas specifically designated for use by animals, such as dog parks or similar areas, in each instance subject to all applicable Community Rules. Nothing contained herein shall restrict the keeping of fish in an aquarium or fish in an exterior pond or pool (such as koi) so long as the approvals for the installation of such pond have been obtained under **Article 8** (Design Review). Notwithstanding the foregoing, the Community Rules may further limit or restrict the keeping of pets and the Community Board shall have the power to prohibit the keeping or maintenance of any animal, which, in the opinion of the Community Board, after Notice and Hearing, is deemed by the Community Board to constitute a nuisance to any other Owner or Occupant or which constitutes a threat to personal safety in the sole and absolute opinion of the Community Board. Each person bringing or keeping a pet within the Community shall be liable to other Owners and their Invitees for any damage to persons or property caused by such pet. Each owner of an animal shall clean up after such animals that have deposited droppings or otherwise used any portion of the Community. Animals must be kept within an enclosure or on a leash or other appropriate restraint or carrier held by a person capable of controlling the animal when outside the Separate Interest. Nothing contained herein shall constitute a restriction on legally recognized service animals. The Community Board has the power and discretion to determine whether the types or numbers of any animals kept in a Residence are a nuisance, and the Community Board shall have the power to abate the nuisance through any legal procedure that is available to the Community Association.

2.2 Residential Use. Separate Interests shall be used for residential purposes only, provided, however, that any Separate Interest 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 Residence; (b) the business is limited to arts and crafts, the rendition of professional services, including such professional services unrelated to arts and crafts, or other similar activities; (c) the business is operated by the Owner whose principal residence is the Separate Interest, by a Lessee whose principal residence is the Separate Interest or by a member of such Owner's or Lessee's family whose principal residence is the Separate Interest; (d) there is no sales activity conducted within the Community Association Property, no customers visiting the Separate Interest 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 Community Declaration; (ii) any unreasonable increase in the flow of traffic within the Community; (iii) any unreasonable odor, noise, or vibration outside of the Separate Interest; (iv) any parking problems within the Community; or (v) any other adverse conditions to the Occupants of the individual Separate Interests. Notwithstanding the foregoing, nothing contained herein shall be deemed to prohibit any home-based business specifically required to be allowed by Applicable Law.

2.3 Commercial Use. Except as otherwise provided in this Community Declaration, including without limitation **Section 2.2** (Residential Use), 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.

2.4 Rental of Separate Interest. An Owner shall be entitled to rent his or her Separate Interest subject to the restrictions contained in the Community Governing Documents, any contractual agreement between Declarant and each original Owner for such Owner's Separate Interest as to such parties, any other restrictions of record applicable to such Owner's Separate Interest and all Applicable Laws. To the

extent the rental restrictions set forth in this Section violate the applicable requirements of any Federal Agency or Governmental Entity, including but not limited to, California Civil Code Section 4751, such restrictions shall be deemed to no longer apply.

2.4.1 Rental Agreement Requirements. Any rental or lease agreement shall: (a) be in writing; (b) provide that the lease is subject to the Community Governing Documents; and (c) provide that any failure to comply with any provisions of the Community Governing Documents shall be a default under the terms of the rental or lease agreement. The Owner of the leased or rented Separate Interest shall assign such Owner's rights to use the Community Association Property amenities during the term of the lease or rental agreement to the Lessee, and may not retain a concurrent right to use Community Association Property other than a right of access over areas that are open for public access and use. A copy of the rental or lease agreement shall, upon request, be provided to the Community Association. Owners shall, at all times, be responsible for their Lessee's compliance with the Community Governing Documents. A Lessee shall have no obligation to the Community Association to pay Assessments nor shall any Lessee have any voting rights in the Community Association.

2.4.2 Owner-Lessor Rights and Duties. The Owner of the leased or rented Separate Interest shall be liable for all acts or omissions, whether negligent or non-negligent, of the Lessee, and his or her Invitees, and the Owner shall indemnify, defend and hold harmless the Community Association and other Owners from any liability arising from any such acts or omissions.

2.4.3 Short-Term Rentals. No Owner may lease such Owner's Separate Interest for hotel, motel or transient purposes and no Owner may lease only a portion of such Owner's Separate Interest. 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. To the extent the rental restrictions set forth in this Section violate the requirements of any Federal Agency or Governmental Entity, such restrictions shall be deemed to no longer apply.

2.4.4 Rights of the Community Association. If any Lessee fails to honor the provisions of any Community Governing Document, the Community Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances to preserve the quiet enjoyment of other Owners and residents of the Community. Without limitation, the Community Association's actions in response to a Lessee's violation of the Community Governing Documents may include the imposition of fines and penalties against the Owner-lessor of the Separate Interest.

2.5 Further Subdivision. Except as otherwise provided in this Community Declaration, no Owner may further partition or subdivide the Owner's Separate Interest, including any division of such Owner's Separate Interest into time-share estates or time-share uses. This provision does not limit the right of an Owner to: (a) rent or lease the Separate Interest by means of a written lease or rental agreement subject to the Community Governing Documents; (b) sell such Owner's Separate Interest; or (c) transfer or sell any Separate Interest to more than one (1) Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property.

2.6 Time Sharing. A Separate Interest 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 Separate Interests 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.

2.7 Signs, Flags and Displays. Subject to California Civil Code Sections 712, 713, and 4710, no sign, poster, billboard, balloon, advertising device or other display of any kind shall be displayed in the Community, except for the following:

2.7.1 Community Association and Community Signs. Entry monuments, wayfinding signs, property identification signs, management company signs and traffic or parking control signs installed by Declarant or a Neighborhood Builder and maintained by the Community Association, subject to compliance with City signage criteria;

2.7.2 Name or Address Signs. Each Separate Interest may have one (1) nameplate or similar Owner name or address identification sign which complies with the Community Design Guidelines;

2.7.3 Security Services Signs. Each Separate Interest may have one (1) sign advising of the existence of security services which complies with the Community Design Guidelines;

2.7.4 For Sale and Lease Signs. Each Separate Interest may have one (1) sign advertising the Separate Interest for sale or lease that complies with the following requirements: (a) the sign has reasonable design and dimensions (which shall not exceed a total dimension of eighteen (18) inches by thirty (30) inches in size), consist of a single panel with no additional signs affixed to it, and does not adversely affect public safety, including traffic safety; and (b) the sign is of a color, style and location authorized by the Community Board;

2.7.5 Noncommercial Signs. Each Owner may install a noncommercial sign, poster, flag or banner on the Owner's Separate Interest that complies with the following requirements: (a) a noncommercial sign or poster may not be more than nine (9) square feet in size and a noncommercial flag or banner may not be more than fifteen (15) square feet in size; and (b) a noncommercial sign, poster, flag or banner may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces. The Community Board has the power, but not the duty, to impose reasonable limits on the duration of display of noncommercial signs, consistent with current law and decisions interpreting restrictions on time, place and manner of noncommercial speech;

2.7.6 Other Signs. Each Owner may post such other signs or displays in the Owner's Separate Interest, if authorized by the Community Board; and

2.7.7 U.S. Flags. The Community Board shall comply with California Civil Code Section 4705, by allowing an Owner to display the flag of the United States, as defined by California Government Code Section 434.5(b) within such Owner's Separate Interest, in a location reasonably approved by the Community Board. For purposes of this Section, "displaying the flag of the United States" means a flag of the United States made of fabric, cloth or paper displayed from a staff or pole or in a window and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, balloons or any other similar building, landscaping or decorative component,

2.7.8 Compliance with Applicable Laws. In addition to the foregoing, all signs, flags and displays must comply with all Applicable Laws.

2.8 Parking and Vehicular Restrictions.

2.8.1 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. In addition, motor homes and recreational vehicles (including, without limitation, any camper unit, trailer, boat or other reasonably similar vehicle) shall be classified as Authorized Vehicles provided such vehicle is parked alongside or in the rear of the Owner's Separate Interest and is reasonably screened from the view of all other Separate Interests. 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 Community Association determines either restricts the passage of pedestrians or vehicles over the streets, driveways or sidewalks in the Community or extends beyond the limits of the

space where the Authorized Vehicle is parked. The Community Association has the power to identify additional vehicles as Authorized Vehicles in the Community Rules and to adapt this restriction to other types of vehicles.

2.8.2 Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": (a) recreational vehicles (e.g., motorhomes, travel trailers, camper vans and boats) that are not screened as set forth in **Section 2.8.1** (Authorized Vehicles); (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) any vehicles or vehicular equipment deemed a nuisance by the Community Board; and (i) any other vehicles not classified as an Authorized Vehicle. Prohibited Vehicles may not be parked, stored or kept on any public or private street in, adjacent to or visible from the Property or any other Community Association Property parking area unless (a) they are owned and used by the Community Association or a Neighborhood Association in connection with management or maintenance of a part of the Property, (b) they are parked for brief periods as may be defined by the Community Association, or (c) they are parked in an Owner's fully enclosed garage with the door closed. 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 Community Association.

2.8.3 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 and kept in the Community must first be parked in the garage, if any, of that Owner to the extent of the space available, as provided in **Section 2.8.5** (Garage Use). Once the maximum number of vehicles are parked in the garage, Owners may park Authorized Vehicles in their driveway, if any, provided that such Authorized Vehicle does not extend into any sidewalk, parkway or street bordering the Owner's driveway. No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property, with the exception of minor or emergency automobile repairs, and then only to the extent necessary to enable the vehicle to be moved to a proper repair facility. There is no guarantee, representation or assurance that vehicles will fit into the garages or any driveways. Notwithstanding the foregoing, no storage or the installation of any cabinets, shelves or other storage facilities is allowed in any garage which interferes with the parking of functional, operating, registered street legal vehicles. In no event shall parked automobiles, structures or other items block access to any streets or restrict ingress or egress on, over, through and across any streets.

2.8.4 Parking Regulations. The Community Association may establish additional regulations regarding any 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 Community 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. Notwithstanding the foregoing, certain streets providing access to the Community are public streets which are owned, maintained and operated by the City. This Community Declaration does not encumber such public streets, nor does the Community Association or any Neighborhood Association have the right to regulate the public streets providing access to the Community.

2.8.5 Garage Use. Parking spaces in the garages shall be used as the primary parking space for street legal, registered automobiles. No garage space shall be used for non-parking activities if it will result in the Owner or Occupant using the driveway or open parking space instead of the garage. Notwithstanding the foregoing, no vehicle that displays a commercial sign larger than twelve (12) inches in length shall be permitted to be parked outside of a garage. Garages shall be used for parking vehicles or motorcycles 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 for which the garage was designed. Notwithstanding the foregoing, to the extent that Applicable Laws require that an Owner be allowed to convert a garage, or a portion thereof, to living areas, including without limitation the construction or conversion of space into an ADU, such conversion shall only be allowed to the minimum extent required under Applicable Laws, so as to maximize the ability to utilize the garage for the parking of vehicles inside the garage. It is the intent of this Section to require an Owner and Occupant, to the extent

such Owner or Occupants has automobiles in the Property, to park such automobiles in such Owner's or Occupant's garage, if any, and in the appropriate length driveway, if any, as a secondary location. Garage doors shall remain closed except for reasonable periods while the garage is being used. All garages shall be equipped with roll-up garage doors and functioning garage door opener.

2.9 Installations.

2.9.1 Generally. This Section does not apply to Improvements installed by Declarant or a Neighborhood Builder (with the prior consent of Declarant).

2.9.2 Outside Installations. Unless approved by the City, if City approval is required by Applicable Laws or the Community Entitlements, and the Community Association pursuant to **Article 8** (Design Review), the following items are prohibited: (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 to any Separate Interests.

2.9.3 Balconies and Decks. All furniture within a balcony or deck area shall be maintained in a clean and attractive condition. No Owner shall use any balcony or deck areas for storage purposes, including, without limitation, the storage of bicycles.

2.9.4 Sports Apparatus. No basketball standards or other fixed sports apparatus shall be constructed or attached to any Residence except as approved pursuant to **Article 8** (Design Review). Portable basketball apparatus shall be permitted so long as such apparatus is in conformance with the Community Rules.

2.9.5 Exterior Lighting. Any exterior electrical, gas or other artificial lighting installed on any Residence shall be positioned, screened, or otherwise directed or situated and of such controlled focus and intensity so as to fall only on the same Separate Interest on which such lighting is located. Further rules regarding exterior lighting may be promulgated by the Community Board. Some of the exterior lighting on Condominiums, if any, may provide 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. Notwithstanding the foregoing, Owners, the Community Association and any Neighborhood Association shall comply with all Applicable Laws regarding outdoor lighting standards, including without limitation the San Bernardino Light Trespass Ordinance set forth in County Ordinance No. 4419, as may be amended, as applicable to any lighting or illuminance located within the Community.

2.9.6 Outside Drying and Laundering. No exterior clothesline shall be erected or maintained within the Community. There shall be no exterior drying or laundering of clothes or any other items, except that backyards may be used for clotheslines or drying racks provided that such laundering apparatuses are not visible at street level from outside of the Separate Interest.

2.9.7 Window Coverings. No Owner or other resident of the Community may apply paint, foil, film, or other reflective material to the glass portion of any window in the Residence. This Section shall not be interpreted to prohibit the installation of blinds, shutters, curtains and other similar 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 thirty (30) days from the Close of Escrow of the Separate Interest or such longer period as may be authorized by the Community Board. Except as specifically provided above, no Temporary Window Coverings shall be used to cover any door or window of any Residence.

2.9.8 Fences, Etc. No fences, awnings, ornamental screens, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Community except those that are installed in accordance with the original construction of the Community

or as are authorized and approved in accordance with **Article 8** (Design Review). In no event shall any fences, gates or walls installed by Declarant or a Neighborhood Builder be altered in any way unless such alteration has been approved in accordance with the provisions set forth in **Article 8** (Design Review).

2.9.9 Painting. No Owner shall paint the exterior of the Owner's Residence or any other exterior Improvements within a Separate Interest without prior approval in accordance with **Article 8** (Design Review), except that no consent shall be required if an Owner repaints the exterior with the same existing color of such Residence.

2.9.10 Holiday Decorations. Outdoor holiday decorations, or indoor holiday decorations that are visible from outside, shall be limited to a reasonable period of time prior to the date of the holiday, as determined by the Community Association in the Community Rules, and shall be removed as and when required by the Community Rules.

2.9.11 Wood Burning Fireplaces. Wood burning fireplaces are prohibited within the Property and shall not be installed or used by an Owner.

2.10 Mineral Exploration. No portion of the Property shall be used in any manner to explore for or to remove any oil, minerals, natural gas or other hydrocarbons, geothermal heat or substances, water, gravel, earth or any earth substance or other mineral of any kind ("**Subsurface Resources**"). No well for the production of, or from which there is produced, Subsurface Resources 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. Notwithstanding the foregoing, nothing in this Section or anywhere else in this Community Declaration shall be deemed to prohibit, impair or in any way limit the rights of Declarant or any affiliate of Declarant (or a successor or assign to any rights of Declarant or an affiliate of Declarant to Subsurface Resources) to drill for, explore for, mine and/or remove any Subsurface Resources from any Property within the Community, and Declarant, any affiliate of Declarant, and any successors and assigns to any rights of Declarant or an affiliate of Declarant to the Subsurface Resources shall have such rights, including, without limitation, the right to whipstock or directionally drill and mine from lands other than the Community, wells, tunnels and shafts into, through or across the subsurface of the Property, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts within or beyond the exterior limits of the Community.

2.11 Trash. No garbage, trash, rubbish, or other waste material shall be kept or permitted within the Community except in garbage cans, trash containers, trash chutes, dumpsters or other waste receptacles in conformance with the Community Rules. All trash containers shall be located so as to be out of public view, except when placed for pickup and except for trash containers, if any, permanently installed by Declarant, a Neighborhood Builder or approved by the Community Design Review Committee. Owners with rear or side yards or garages may keep trash in individual and sanitary containers in their rear or side yards or garages, and each such Owner shall at all times maintain adequate space in their garage or rear or side yards for storage of trash containers (as applicable). Trash containers owned by a Neighborhood Association may be kept on Neighborhood Association Property so long as they are contained in an enclosure installed by Declarant or a Neighborhood Builder or approved by the Community Design Review Committee. 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 trash chutes, dumpsters or anywhere else in the Community. All trash containers shall be maintained such that the lids remain closed to prevent excessive odor from emanating therefrom. Furniture or other large items shall not be placed in dumpsters, if any, that are located within the Community, or waste receptacles. Owners shall comply with the Community Rules regarding trash disposal and recycling.

2.12 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 promulgated thereunder (collectively "**Antenna Laws**"); (b) in a particular location if, in the Community 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 Community 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 Community Board with written notice that such Owner intends to install the Antenna and provide 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 Community Board pursuant to **Article 8** (Design Review). The Community 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.

2.13 View Impairment. There is no representation that any view exists from any Residence or Separate Interest. Each Owner, by accepting a deed to a Residence, acknowledges that grading of, construction on or installation of Improvements, including landscaping, on other Separate Interests and on surrounding real property may impair whatever view may exist from the Owner's Separate Interest and each Owner consents to such impairment and waives any claim for view impairment. Each Owner and the Community Association, by accepting a deed to a Separate Interest or any Community Association Property, acknowledges that any construction or installation by Declarant, Neighborhood Builders or by other Owners as provided in **Article 8** (Design Review), may impair the view of such Owner, and each Owner and the Community Association, on behalf of the Members, hereby consent to such view impairment and/or loss of privacy. By accepting a deed to a Residence, each Owner acknowledges that: (a) there are no protected views, and no Separate Interest is assured of the existence, quality or unobstructed continuation of any particular view, and Declarant and each Neighborhood Builder 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 value or desirability of any Separate Interest; (b) any view from the Separate Interest is not intended as part of the value of the Separate Interest and is not guaranteed; and (c) any future development, construction, landscaping, growth of trees, or other installation of Improvements by Declarant, Neighborhood Builders or other Owners or of properties surrounding the Community may impair the view from any Separate Interest and/or may allow other persons to have a line of sight into Owner's Separate Interest, which may affect the use and enjoyment of the Owner's Separate Interest, including Owner's privacy. There are no express or implied easements appurtenant to any Separate Interest for view purposes or for the passage of light and air over another Separate Interest, or any other property whatsoever.

2.14 Drainage. Declarant or a Neighborhood Builder may have installed one or more Storm Water and Drainage Improvements in or on the Separate Interests and/or Community Association Property. The Storm Water and Drainage Improvements are intended to collect and transport surface waters from each Separate Interest and from elsewhere in the Property to proper points of disposal. No Person may block or interfere with the proper function or maintenance of the Storm Water and Drainage Improvements on the Separate Interests.

2.14.1 Established Drainage. There shall be no interference with or obstruction of the established surface drainage pattern(s) over any Separate Interest or in the Property, unless an adequate alternative provision is made for proper drainage, consistent with all Applicable Laws. For the purpose hereof, "established" drainage is defined as the drainage which exists at the time of the first conveyance to a First Owner, or as shown on any plan approved by the Community Board. Established drainage includes drainage from and to a Separate Interest and/or Community Association Property or Neighborhood Association Property and to and from property lying outside or within the Property.

2.14.2 Control of Surface Waters. Owners must use adequate drainage and irrigation control. The installation or modification of landscaping and the construction or modification of Improvements by Owners must not cause the ponding of water. Owner-installed drainage devices, including, but not limited to, concrete ditches, area drain lines and gutters, should be carefully designed and installed with professional assistance and then maintained in an unobstructed condition. All Owner-installed landscape irrigation systems should be designed, constructed, and operated to prevent excessive saturation of soils. All Owner-installed landscaping (if any) must be designed to ensure that water drains

away from the Residence footings and other Improvements. Obstructions such as walls should not be constructed across swales unless adequate replacement Storm Water and Drainage Improvements have been installed or created. Owners shall maintain and keep clear of debris any drainage facility or device constructed by Declarant or a Neighborhood Builder.

2.14.3 Maintenance of Storm Water and Drainage Improvements. Each Owner must maintain, and keep free of debris and obstructions, all Storm Water and Drainage Improvements located on or under a Separate Interest, if any, except those located within or otherwise designated as a Community Association Maintenance Area. To ensure adequate drainage within the Property, it is essential that the Storm Water and Drainage Improvements not be modified, removed or blocked without having first made alternative drainage arrangements. Therefore, no Owner may install, alter, modify, remove or replace any Storm Water and Drainage Improvements without first making alternative drainage arrangements approved in writing by the Community Board and by all applicable Governmental Entities. Owner-installed irrigation systems must be installed and maintained to prevent excess runoff and accumulation of surface water.

2.14.4 Indemnity. Any Owner, Neighborhood Association, and/or the Community Association who violates the restrictions in this Community Declaration relating to drainage shall indemnify, protect, defend and hold each other Owner and Declarant and any other Neighborhood Builder free and harmless from any and all liabilities, actions, penalties and damages arising from or attributable to any such violation.

2.15 Storm Water Pollution and Best Management Practices. Each Owner, the Community Association, and any Neighborhood Association, acknowledge that water that enters a storm drain flows 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 City prohibit discharging anything other than natural rainwater 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 Owners, the Community Association and/or Neighborhood Association may be responsible for any activities by their respective contractors (e.g., painters, etc.) who dispose of such pollutants within the Community into a storm drain system. Use and disposal of pesticides, fungicides, herbicides, insecticides, fertilizers, and other such chemicals shall meet all requirements of Governmental Entities.

2.15.1 Best Management Practices. To comply with the requirements of Governmental Entities in connection with the storm water pollution prevention Best Management Practices, each Owner, the Community Association and any Neighborhood Association agree that they will, at all times, maintain all Improvements located within a Separate Interest and in the case of the Community Association, within the Community Association Property and Community Association Maintenance Areas, and in the case of the Neighborhood Association, the Neighborhood Association Property, in a clean, safe and attractive condition, free and clear of any and all debris and in accordance with any agreements that are recorded or may be recorded against the Community. All landscaping located within an Owner's Separate Interest, if any, shall be maintained by an Owner in a manner that will prevent soil erosion and minimize sediment transport. To the extent that Declarant or Neighborhood Builder has installed any erosion protection devices (e.g., sandbags), an Owner shall not remove such devices unless and until all landscaping has been installed on a Separate Interest and has been sufficiently grown so as to prevent soil erosion and transport of any sediment. All trash receptacles within an Owner's Separate Interest shall be covered and closed at all times except when disposing of trash. The Community Association, any Neighborhood Association and the Owners shall comply with all applicable Best Management Practices and perform all maintenance that may be imposed by any water quality management plan that may affect such parties respective portion of the Property. The costs of the Community Association's portion of such maintenance, if any, shall be treated as a Common Expense. All Owners, the Community Association and any Neighborhood Association are required to comply with such restrictions and Best Management Practices that may affect any of such party's respective portion of the Property. **"Best Management Practices"**

means all best management practices imposed from time to time by Applicable Laws or Governmental Entities, 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 storm water, receiving water or storm water conveyance system to the maximum extent practicable. Owners are encouraged to consult with the Governmental Entities, concerning the proper disposal of any toxic or Hazardous Materials.

2.15.2 Liability to Declarant and Neighborhood Builders. Prior to the Declarant's Rights Termination Date, if an Owner, the Community Association or any Neighborhood Association is not in compliance with the provisions of this Section and as a result, Declarant or any Neighborhood Builder may incur any liability, Declarant and each Neighborhood Builder shall have the right but not the obligation to enter upon such violating parties' property to correct such violation. Any Owner who violates the requirements of this Section, and the Community Association, to the extent the Community Association violates the requirements of this Section, and any Neighborhood Association, to the extent the Neighborhood Association violates the requirements of this Section, shall indemnify, protect, defend and hold Declarant Parties and each Neighborhood Builder Parties 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 and/or any Neighborhood Builder, reimburse Declarant or such requesting Neighbor Builder for any costs and expenses incurred by the requesting party in correcting any violation of this Section by the Owner, the Community Association or any Neighborhood Association.

2.16 Community Association Maintenance Areas. Unless approved by the Community Board, each Owner shall be prohibited from: (a) placing, maintaining, constructing or planting any Improvements, landscaping or other items, including without limitation, decks, stairs, walls, irrigation systems, trees or any vegetation on any Community Association Maintenance Area located within a Separate Interest; (b) removing, altering or modifying any cluster mailboxes servicing the Community located on such Owner's Separate Interest; or (c) otherwise altering or modifying the Community Association Maintenance Area in any way. Each Owner shall have the right to access any Community Association Maintenance Area that exists on such Owner's Separate Interest as may be necessary in connection with the maintenance of such Owner's Residence or other Improvements on such owner's Separate Interest. Any Owner who modifies any Community Association Maintenance Area shall be responsible for all costs associated with repairing damage associated with such modification.

2.16.1 Community Association Access. Each Owner whose Separate Interest includes a Community Association Maintenance Area within its boundaries shall cooperate to permit access to the Separate Interest which cooperation shall include, without limitation: (a) unlocking the gate providing access to such area; and (b) removing any dogs or pets from the yard area while the Community Association, its contactors or subcontractors are performing work within the Community Association Maintenance Area. Prior to commencing work within any Community Association Maintenance Area located within a Separate Interest, the Community Association shall provide twenty-four (24) hours' notice to the Owner of the Separate Interest on which the Community Association Maintenance Area property is located; provided, however that in the event of an Emergency, no such prior notice shall be necessary. Upon completion of any Community Association work within the Community Association Maintenance Area, it shall be the responsibility of the Owner to lock any unlocked gate.

2.16.2 Community Association Maintenance Areas (Subsurface Improvements). The restrictions set forth in this Section 2.16.2 shall apply only to those Community Association Maintenance Areas where the Community Association is responsible for maintaining only sub-surface Improvements. In no event shall hardscape, trees, large bushes, boulders or any Improvements that would otherwise impede the Community Association's ability to access the sub-surface facilities be placed or maintained within the Community Association Maintenance Areas that include sub-surface Improvements.

2.17 Landscaping. If an Owner's Separate Interest includes a front yard and/or a backyard, each such Owner shall submit an application for and install the landscaping in accordance with the

requirements set forth in **Article 8** (Design Review) for landscaping the areas of the Separate Interest not landscaped by Declarant or a Neighborhood Builder within the timeframes set forth in the Design Guidelines, unless a different time period is otherwise agreed to by the Community Board. During landscaping of a Separate Interest, landscaping and construction materials must be stored only upon the Owner's Separate Interest. Such materials must be properly contained to prevent spillover into the public streets or Private Streets and no materials, including without limitation rocks or gravel, may be deposited on public streets or Private Streets. Spilled material must be swept and containerized. Spilled materials shall not be washed into the storm water curb drain inlets. Temporary erosion or sediment control devices may have been installed by Declarant or Neighborhood Builders during construction of the Community. If an Owner's Separate Interest includes a front yard and/or a backyard, Owners shall not remove any temporary erosion or sediment control devices installed by Declarant or Neighborhood Builders until Owner's Separate Interest is landscaped and the plantings are established. Owner is responsible for preventing sediment leaving Owner's Separate Interest. Each Owner of a Separate Interest shall be liable to Declarant Parties and Neighborhood Builder Parties, as applicable, and the Community Association for any damage resulting from failure to prevent sediment from leaving the Owner's Separate Interest and shall indemnify, protect, defend and hold Declarant Parties and Neighborhood Builder Parties, as applicable, and the Community Association entirely free and harmless from any and all liabilities, actions, penalties and damages arising from or attributable to any such runoff.

2.17.1 Recycled Water Irrigation. Landscaping installed by Declarant, Neighborhood Builder or Owner shall be served by an in-ground recycled water irrigation system that is designed, installed or modified in compliance with the City design standard and procedures and with the Water District's Policies and Standards. The Water District is responsible for the approval of irrigation plans and inspections of all residential dual plumbed recycled water irrigation and exterior potable water systems within the Separate Interest. Owners must obtain prior approval for all proposed modifications to the in-ground recycled water irrigation system located on their Separate Interest. Changes must be submitted and approved in accordance with the requirements set forth in **Article 8** (Design Review) and submitted to and approved by the Water District prior to any modifications. If not already installed by Declarant or Neighborhood Builder as part of the original construction of the Residence, and subject to additional restrictions in an applicable Community Supplementary Declaration, each Owner shall submit, within the timeframes set forth in the Design Guidelines, a plan for the installation of landscaping on the areas of the Separate Interest not landscaped by Declarant or a Neighborhood Builder, and once approved in accordance with the requirements set forth in **Article 8** (Design Review) and approved by the Water District, the Owner shall complete the installation of landscaping on such portions of the Separate Interest in accordance with the plan within the timeframes set forth in the Design Guidelines. Each Owner shall obtain all permits necessary and shall comply with all requirements of the City and the Water District. Such landscaping shall be served by an in-ground recycled water irrigation system that complies with the current Water District's Policies and Standards.

(a) Recycled Water Irrigation System. As described in **Section 2.23** (Recycled Water), the Residences are served by two (2) water supply systems, including a separate recycled water meter and system installed for landscaping irrigation. If front yard landscaping is already installed by Declarant or Neighborhood Builder, the front yard irrigation system is already connected to the recycled water system. Each Owner's installation of an irrigation system serving the Owner's rear and any side yard area or any area not landscaped by Declarant or a Neighborhood Builder is also required to be connected to the recycled water system. All landscaping irrigation systems are required to be connected to the recycled water systems; in no case will irrigation be connected to the drinking water systems. The Community is supplied with recycled water for landscape irrigation by the Water District. Owners are required to comply with the Water District's Policies and Standards when designing, installing or modifying a recycled water landscape irrigation system. Whether the Owner installs or modifies the recycled water landscape irrigation system in the front, back and side yards, or it is installed or modified by a contractor, the work must comply with the Water District's Policies and Standards and be approved by the Water District prior to work beginning. Once plans have been approved by the Water District and after initial construction of proposed systems, an open trench inspection must be scheduled with the Water District by the Owner prior to covering any water line. In no case shall irrigation or drinking water lines be covered before inspection by the Water District. The Water District requires that a Declaration of Restrictions Regarding

Recycled Water be recorded over an Owner's Separate Interest as part of the irrigation system approval process for each such Separate Interest, and the Water District reserves the right to periodically enter each such Separate Interest to inspect recycled water irrigation systems and to test for prohibited cross-connection of irrigation and potable water systems.

(b) **Irrigation System Design, Installation or Modification.** Before commencing the design, installation or modification of a recycled water irrigation system in the front, back and sideyards, Owners must obtain from the Declarant, their Neighborhood Builder or from the Water District, the then-current Water District's Policies and Standards for recycled water residential irrigation systems. Thereafter, Owners must comply with all of the Water District's Policies and Standards for recycled water residential irrigation systems. Besides the information about the Water District's recycled water program in **Section 2.23** (Recycled Water), additional information is available directly from the Water District, by contacting the Water District at 760-947-1840.

(c) **Prevent Overspray, Runoff and Ponding.** Irrigation systems should be designed and operated to prevent overspray, runoff and ponding. Irrigation spray nozzles must be installed to prevent overspray onto paved surfaces, as directed by the Water District's Policies and Standards. Unless otherwise provided in the Water District's Policies and Standards, a buffer zone around landscaped areas irrigated with recycled water spray nozzles must be designated and installed to prevent overspray and run-off. The buffer zone may be irrigated with a drip system only. Recycled water shall be applied at a rate that does not exceed the infiltration rate of the soil.

(d) **Separation from the Residence.** Unless otherwise provided in the Water District's Policies and Standards, irrigation systems should be designed and operated to minimize overspray coming in contact with the Residence. A five-foot mulch separation is required from the exterior walls of the Residence to the irrigation system spray. Irrigation for the five-foot mulch area of separation may be provided by a drip system.

(e) **Separation from Driveways and Sidewalks.** Unless otherwise provided in the Water District's Policies and Standards, a two-foot mulch separation is required from the exterior driveway and sidewalks of the Residence to the irrigation system spray. This two-foot mulch area of separation is intended to create a buffer zone to prevent runoff and overspray. The irrigation of the two-foot mulch area of separation may be provided by a drip system.

(f) **Protection of Outdoor Eating Areas.** Unless otherwise provided in the Water District's Policies and Standards, outdoor eating areas must be separated and protected from overspray from areas irrigated with recycled water.

(g) **Water Features.** Unless otherwise provided in the Water District's Policies and Standards, outdoor water features must be approved, prior to installation in accordance with the requirements set forth in **Article 8** (Design Review) and approved by the Water District.

(h) **Hose Bibs.** Hose bibs are not allowed to be connected to the recycled water system.

(i) **Wi-Fi Weather Controlled Irrigation Controllers.** Unless otherwise provided in the Water District's Policies and Standards, each Residence will be equipped with internet-connected weather-controlled irrigation control systems. These systems will be connected remotely to internet weather data through the wi-fi serving the Residence to prevent irrigation before, during, and 48 hours after a storm event.

2.18 Slopes. Except for any Community Association Maintenance Areas on an Owner's Separate Interest (if any), which the Community Association shall maintain, each Owner shall keep, maintain, water, plant and replant all slopes located on such Owner's Separate Interest so as to prevent erosion and to create an attractive appearance. It shall be the duty of all such Owners to conduct all construction and installation of improvements on such slopes in accordance with the Maintenance

Obligations and any guidelines or rules adopted by the Community Board for maintenance of such slopes. Thereafter each such Owner shall keep, maintain, water, and replant all improvements on such slopes in such a manner as to protect the integrity of such Owner's Separate Interest and all adjoining Separate Interests and the structural improvements thereon. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on such slopes that may damage or interfere with established slope ratios, create erosion or sliding problems, or that may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels.

2.19 Post Tension Slabs. The concrete slabs for all or a portion of the Residences within the Separate Interests in the Community may be reinforced with a grid of steel cables that is 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 Residence and/or personal injury. By accepting a grant deed to a Residence in the Community, each Owner specifically covenants and agrees that if such Owner's Residence is reinforced with a Post Tension Slab: (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; (c) such Owner shall disclose the existence of the Post Tension Slab to any Occupant or subsequent purchaser of the Separate Interest; and (d) such Owner shall indemnify, protect, defend and hold Declarant Parties and the applicable Neighborhood Builder Parties 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. Separate Interests with Post Tension Slabs may be designated in Community Supplementary Declarations.

2.20 Fuel Modification Zones. Portions of the Community may be located in an area identified by the County or other Governmental Entity as a Very High Fire Hazard Severity Zone. Also, portions of the Community and Annexable Property are affected by Fuel Modification Zones. The purpose of the Fuel Modification Zones is to reduce the likelihood of damage to the Community by retarding the spread of wildfires into the residential areas and to protect the surrounding natural vegetation from structural fires within the Community through the use of setback zones, fire retardant plant species, fire resistant materials, and fire extinguishing (e.g., irrigation) systems. The portions of the Fuel Modification Zones that are located on Community Association Maintenance Areas and on the Community Association Property will be maintained by the Community Association; however, each Owner is responsible for maintaining any Fuel Modification Zone located on the portions of his or her Separate Interest that he or she is required to maintain and each Owner must comply with all fire related requirements applicable to his or her Separate Interest. Additionally, any changes or additions to landscaping or other improvements in the Fuel Modification Zones from what was previously approved under the applicable Fuel Modification Plan by the applicable Governmental Entity(ies) requires a landscape plan submittal to the applicable Governmental Entity(ies) for approval prior to installation. The Community Association shall make available for inspection by an Owner the Fuel Modification Plan(s) on file with the Community Manager that are applicable to such Owner's Separate Interest.

2.21 Nuisances.

2.21.1 Nuisance Activities. No noxious or offensive activities 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 of the Community, or that in any way interferes or may interfere with the quiet enjoyment of Occupants of Separate Interests. Unless otherwise permitted by the Community Rules or the Community Association, no Owner shall: (a) serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner's Separate Interest or areas permitted for such purposes within the Community Association Property, if any; (b) create unreasonable levels of noise emanating from the Owner's Residence or any private events in the Community, including noise created by amplified music, radio, television, internet or related devices, or unamplified live music performances, excluding Community events sponsored by the Community Association; (c) allow for the creation of unreasonable levels of noise from a barking dog or other animal kept in the Community (for example, chronic daily nuisance barking by a dog over extended periods of time); (d) create outdoor fires, except in barbecue grills, fire pits, and outdoor fireplaces designed and used consistent with all Applicable Laws and in such a manner that they do not

create a fire hazard; or (e) store bulk materials or waste materials. In addition, fire pits may only use propane or natural gas. Wood burning fire pits are prohibited within the Community.

2.21.2 Nuisance Devices. Nuisance devices may not be kept or operated in the Community or on any public street abutting the Community or exposed to the view of other Separate Interests or the Community Association Property. Nuisance devices include the following: (a) all horns, whistles, bells or other sound devices (except security devices used exclusively to protect the security of a Residence or a vehicle and its contents and except for such devices that may be required by the City or County); (b) noisy or smoky vehicles, power equipment (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance), and Prohibited Vehicles (defined above); (c) devices that create or emit loud noises or noxious odors; (d) construction or demolition waste containers (except as permitted in writing by the Community Design Review Committee); (e) devices that unreasonably interfere with television, radio, telephone, cellular or mobile phone reception or internet access to a Separate Interest; and (f) plants or seeds infected with noxious insects or plant diseases.

2.22 Solar Energy Systems. Certain Neighborhood Builders may record instruments that contain easements and restrictions protecting Solar Energy Systems. These instruments are not Community Supplementary Declarations and are not a part of the Community Governing Documents. Certain Solar Energy Systems qualify as "solar collectors" as defined in the Solar Shade Control Act (California Public Resources Code Sections 25980 through 25986 or successor statutes) ("**Shading Act**"). The Community Association is not obligated to enforce the Shading Act; instead Owners of Solar Energy Systems that qualify as "solar collectors" have the right to enforce the Shading Act. The Solar Shading Act provides that it does not apply to a tree or shrub planted prior to the installation of a solar collector and also does not apply to replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment. The landscaping on Community Association Property was installed prior to the first Close of Escrow for each Separate Interest so the Solar Shading Act does not apply to any Community Association Property landscaping. As used herein, "**Solar Energy Systems**" means fixed devices, structures or devices or structures that are used primarily to transform solar energy into thermal, chemical or electrical energy including roof-integrated photovoltaic roof tiles, roof-mounted panels or other roof-mounted devices that collect solar energy and generate energy by exposure to the sun.

2.23 Recycled Water.

2.23.1 Use for Irrigation. All Separate Interests and the Community Association Property and Community Association Maintenance Areas in the Community are required, as of the date this Declaration is recorded, to use in-ground irrigation systems supplied with recycled water by the Water District, for the irrigation of landscaping. Recycled water shall not be used for any purpose other than irrigation. Each Separate Interest will include two (2) separate water meters and water systems - one for drinking (potable) water, and one for landscape irrigation using recycled water. Exterior hose bibs (water spigots), pools and spas for Residences are connected to the drinking water system. Modification or relocation of the drinking water meter or the recycled water meter and the associated water systems, which results in nonconformance with any of the Water District's Policies and Standards, is prohibited. Irrigation systems installed by or on behalf of Owners must comply with the Water District's Policies and Standards, must be approved by the Water District prior to installation or modification of the irrigation system, and must be inspected prior to backfill of excavations, as described in **Section 2.17.1** (Recycled Water Irrigation). The Water District requires that a Declaration of Restrictions Regarding Recycled Water ("**Recycled Water Declaration**") be recorded over an Owner's Separate Interest as part of the irrigation system approval process for each such Separate Interest. Under the Recycled Water Declaration, if the Separate Interest is rented the Separate Interest Owner remains responsible for proper use of recycled water on the Separate Interest, and for notifying a tenant or a new Owner of the requirements associated with recycled water. Also, the Water District reserves the right to periodically enter each such Separate Interest to inspect recycled water irrigation systems and to test for prohibited cross-connection of irrigation and potable water systems.

2.23.2 Description of Recycled Water. Recycled water comes from wastewater and it goes through at least three stages of treatment in compliance with the standards set by California's Department of Health Services and Regional Water Quality Control Board, but recycled water may not be treated to levels required for consumption by humans or domestic animals. Recycled water irrigation water lines and equipment are purple in color for ready identification. All Persons in the Community should always assume that water originating from purple irrigation water lines and equipment is recycled, and therefore is never suitable for human or domestic animal consumption. There is no way to reliably tell the difference between potable water and recycled water without a chemical test. Owners and the Community Association should ensure that there is no overspray of irrigation water. The repeated spray of any water used in irrigation may stain or discolor personal property, fences, walls and other Improvements.

2.23.3 Role of the Water District. The Water District is responsible for the approval of plans and inspections of all separate residential recycled water irrigation and exterior drinking water systems within the Community. Where repair or replacement of a water line on the upstream side of the water meter is required, it shall be the responsibility of the Water District. Conversely, the cost of repair or replacement of the water service facilities on a Separate Interest shall be the responsibility of the Owner. The Community Association will provide the Water District information to the Owners regarding recycled water and will provide facilities where the Water District can conduct workshops on recycled water use. The Community Association through its Site Supervisor, approved by the Water District, is responsible for the maintenance of all Community Association Property and Community Association Maintenance Area landscape irrigation systems. The Water District reserves the right to utilize other water supplies in the recycled water system without notice to any Person. Generally this will involve utilizing raw water or potable water. Neither Declarant, the Community Association, any Neighborhood Builder nor their officers, directors, employees or agents are liable for any property damage or personal injury caused by recycled water. Further information concerning recycled water is available at the Water District's main office at 9700 Seventh Avenue, Hesperia, CA 92345.

2.24 Master Governing Documents. The Community Association, any Neighborhood Association and each Owner shall comply with the limitations, covenants and restrictions set forth in the Master Governing Documents, including without limitation the Settlement Agreement Covenants. The Community Association shall be obligated to enforce such limitations, covenants and restrictions set forth in the Master Governing Documents, including without limitation the Settlement Agreement Covenants, and all of the other restrictions in the Master Governing Documents against the Owners in accordance with the requirements set forth herein, and subject to oversight by, the Master Association.

2.25 Compliance With Laws, Etc. Nothing shall be done or kept in any Separate Interest or in the Community Association Property that might materially increase the premiums of any policy of insurance maintained by the Community Association, any Neighborhood Association or would render any portion of the Community uninsurable, or create any valid defense to the Community Association's right to collect insurance proceeds, or cause any insurance policy to be cancelled, or cause a refusal to renew the same. No activities shall be conducted on any portion of the Property and no Improvements shall be constructed within the Community that are unsafe or hazardous to any person or property. No Owner, the Community Association or any Neighborhood Association shall permit anything to be done or kept in the Community that violates Applicable Laws, including any Applicable Laws pertaining to the use or storage of any Hazardous Materials. The Community Association, any Neighborhood Association and each Owner shall comply with all Applicable Laws and all applicable requirements of the Community Entitlements.

2.26 Declarant and Neighborhood Builders Exemption. The restrictions set forth in this Article shall not apply to Declarant or Neighborhood Builders so long as: (a) Declarant or a Neighborhood Builder owns any portion of the Property or the Annexable Property; or (b) Declarant or Neighborhood Builder is exercising any of its rights under **Article 9** (Development Rights) or any other rights or powers or easements reserved to Declarant or Neighborhood Builder under this Community Declaration, provided that Declarant and any Neighborhood Builder shall comply with the limitations, covenants and restrictions set forth in the Master Governing Documents, including without limitation the Settlement Agreement Covenants.

ARTICLE 3 OWNERSHIP AND EASEMENTS

3.1 Description of the Community. If developed as planned, the Community will consist of the Property and any Annexable Property that may be annexed hereto. The Property includes areas intended for the use by the Community Association, the Neighborhood Associations, the Owners and their Invitees subject to the rights and limitations set forth in this Community Declaration and the other Community Governing Documents.

3.2 Title to Association Property. Any portions of the Property within a Phase made subject to this Community Declaration that is intended or required to be Community Association Property shall be conveyed to the Community Association prior to the conveyance of the first Separate Interest in that Phase to a First Owner.

3.3 Commencement of Easements. The easements herein granted and reserved shall be effective as to the applicable portions of the Property upon the recordation of this Community Declaration or a Community Supplementary Declaration in the Official Records covering the real property encumbered by such easement, and if such portion of the Property is owned by Declarant or a Neighborhood Builder, upon the conveyance of such portion of the Property by Declarant or such Neighborhood Builder to a First Owner, Community Association or Neighborhood Association, as applicable, and shall thereafter be deemed to be covenants running with the land for the use and benefit of the Owners, the Separate Interests, the Community Association, the Neighborhood Association, the Community Association Property and the Neighborhood Association Property superior to all other encumbrances applied against or in favor of any portion of the Community.

3.4 Access Easements.

3.4.1 Easements Over Community Association Property. Declarant hereby reserves to itself for its benefit and for the benefit of Neighborhood Builders, and grants to the Owners for their benefit and the benefit of their Invitees a non-exclusive easement for ingress, egress and use in and to the Community Association Property, subject to the terms of the Community Entitlements and Community Governing Documents; provided, however, that Owners and Invitees shall not have an easement over any areas restricted from access by the Community Association or restricted under the Community Entitlements. In addition to the foregoing, to the extent a Special Benefit Area is formed for maintenance of portions of the Community Association Property, Declarant shall have the right to restrict use of the such portion of the Community Association Property to Owners and their Invitees within the Special Benefit Area. Such restriction on use shall be as set forth in a Community Supplementary Declaration.

3.4.2 Easements Over Association Maintenance Areas. Declarant hereby reserves to itself and grants to the Community Association, non-exclusive easements over, upon, through and across the Property, including, without limitation, any Community Association Maintenance Areas, for performing its duties and obligations and exercising its powers described in the Community Governing Documents. To the extent any cluster mailboxes serving the Community are installed by Declarant, any Neighborhood Builder or the United States Postal Service on a Separate Interest, Declarant hereby reserves to itself and grants to the Community Association, non-exclusive easements for maintenance, repair and replacement of such cluster mailboxes by the Community Association and non-exclusive easements for the use of the mailboxes by the Owners serviced by such cluster mailbox.

3.4.3 Private Streets and Utility Easements. Declarant hereby reserves to itself for its benefit and the benefit of Neighborhood Builders and the benefit of their respective Invitees, and grants to the Owners, the Community Association and any Neighborhood Association, for their benefit and the benefit of their Invitees, a non-exclusive easement for vehicular and pedestrian ingress and egress over and across Community Association owned and/or maintained Private Streets; provided, however, in the event such Private Streets are included in a Special Benefit Area, Declarant shall have the right to restrict access over such Private Streets to the Owners within such Special Benefit Area or within the jurisdiction of the Community Association. Such easement shall not be deemed to be an easement for parking within any

Private Street; any parking within a Private Street owned by a Neighborhood Association shall be for the sole use and benefit of Owners subject to the jurisdiction of the Neighborhood Association, subject to the Neighborhood Association's requirements related to parking within such Neighborhood Association owned Private Streets. The Community Governing Documents may impose additional restrictions on access on such Private Streets. In addition, Declarant hereby reserves for its benefit and the benefit of all Neighborhood Builders, together with the right to grant and transfer the same and grants to each Owner, the Community Association and any Neighborhood Association, for their benefit, a non-exclusive easement for access and maintenance of landscaping over and across such portion of the Private Streets which may from time to time be included in the Property that Owner is obligated to maintain under the terms of this Declaration.

3.4.4 Driveway Areas. To the extent any portion of the driveway improvements providing access to a Separate Interest are located within the boundary of the Private Streets, the Owner of the Separate Interest serviced by such driveway shall have a non-exclusive easement appurtenant to such Separate Interest over, under, upon and across such driveway improvements for ingress and egress over the driveway improvements and the maintenance, repair and replacement thereof, which maintenance, repair and replacement obligation shall be the sole responsibility of the Owner of the Separate Interest serviced by such driveway.

3.5 Easements in Favor of Declarant and the Community Association.

3.5.1 Easements for Performance of Obligations and Enforcement of Rights. Declarant hereby reserves to itself, for its benefit and any assignees of Declarant (including Neighborhood Builders), and grants to the Community Association, a non-exclusive easement on, over, under, through and across the Property for performing its duties and exercising its powers described in this Community Declaration including for the purpose of taking such actions as may be reasonably required to exercise the remedies of Declarant or the Community Association (as applicable) in regard to any violation of this Community Declaration or any of the other Community Governing Documents or the applicable Neighborhood Governing Documents. Such easements include, without limitation, a non-exclusive easement over, upon, across and through all portions of the Property (including the Community Association Maintenance Areas) and to Declarant, a non-exclusive easement over the Community Association Property for the purpose of performing such maintenance as the Community Association is authorized or required to perform under the Community Governing Documents and the Community Entitlements, and such access as may be reasonably required in connection with such activities. In the case of any such entry over, upon, across and through any Property that is not owned by the Community Association, or included in the Community Association Maintenance Areas, the Community Association shall endeavor to provide reasonable prior notice to the Owner of the affected portions of the Property, subject to the notice provisions set forth in **Section 2.16.1** (Community Association Access).

3.5.2 Events, Services and Concessions. Declarant hereby reserves to itself, a non-exclusive easement over the Community Association Property and other portions of the Property to conduct promotional and sales activities, events, programs and provide other services within the Community Association Property.

3.5.3 Telecommunication Facilities. Declarant hereby reserves to itself, and grants to the Community Association non-exclusive easements through the areas beneath the surface of the Community Association Property, Community Association Maintenance Areas, Private Streets for maintenance of Telecommunication Facilities (to the extent either Declarant or the Community Association has the obligation and/or right to maintain such Telecommunication Facilities) and Declarant further reserves to itself any revenue obtained from such Telecommunications Facilities until the Declarant's Rights Termination Date.

3.5.4 Other Easements. Declarant anticipates that the Property shall be subject to additional easements as set forth in the Community Supplementary Declarations, as well as in any Final Maps, the Community Entitlements and any other agreements recorded against the Property. Nothing in this Community Declaration shall be deemed to limit the right of Declarant or, with the prior consent of

Declarant, Neighborhood Builders and/or the Community Association, to grant or reserve any additional easements over any portion of the Property owned by such party to such grantees and for such purposes as Declarant, the Neighborhood Builder or the Community Association (as applicable) may deem appropriate, provided that any such easement shall not be inconsistent with the easement rights granted in this Community Declaration.

3.6 Easements in Favor of Declarant and/or Neighborhood Builders.

3.6.1 Easements to Exercise Rights. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders, non-exclusive easements for ingress and egress to perform their duties and exercise their powers granted or reserved in this Community Declaration to Declarant or Neighborhood Builders, including, without limitation, the easement rights described in this **Section 3.6** (Easements in Favor of Declarant and/or Neighborhood Builders) and the rights and powers described in **Article 9** (Development Rights).

3.6.2 Development Easements. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders, non-exclusive easements over the Property for access to, and ingress and egress over and across, any portions of 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 the right to exercise any warranty or rights to repair granted to Declarant or a Neighborhood Builder under this Community Declaration, any Neighborhood Declaration, any sales or other conveyance or lease documents entered into by a Neighborhood Builder with an Owner or Lessee and any other agreements between Declarant, a Neighborhood Builder and/or an Owner.

3.6.3 Easements for Annexable Property. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders, non-exclusive easements over, upon, through and across the Property for the purpose of reasonable ingress to and egress from, over and across the Property to the Annexable Property until all of such Annexable Property is annexed to the Property.

3.6.4 Maintenance and Repair. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders, non-exclusive easements over, upon, through and across the Property for access to perform any inspection and necessary maintenance of any Improvements constructed by Declarant or a Neighborhood Builder or their respective agents, employees and contractors. Such right includes the right of Declarant or Neighborhood Builders to enter upon the Property to perform any work required to be performed by such party pursuant to any of the Community Entitlements, or to cure any failure of the Community Association or a Neighborhood Association to perform any work required as a condition to the release of any bonds or other security posted with Governmental Entities or any other obligee and to exercise any repair rights granted to Declarant or Neighborhood Builders under this Community Declaration; provided, however, that nothing contained herein shall be deemed to impose any obligations on Declarant or any Neighborhood Builder to cure any failure of the Community Association or a Neighborhood Association to perform its Maintenance Obligations.

3.6.5 Installation of Additional Improvements. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders, 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 Entities 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, together with the right and power to grant and transfer the same, for its benefit and the benefit of Neighborhood Builders, non-exclusive easements over, upon and across all Community Association Property and Community Association Maintenance Areas for purposes of such access as may be reasonably required in connection with such activities.

3.6.6 Drainage. Declarant hereby reserves to itself, together with the right and power to grant and transfer the same, for its benefit and the benefit of Neighborhood Builders, non-exclusive

easements through and across the Storm Water and Drainage Improvements storm drain Improvements for the drainage of water. Such easements shall be subject to the restrictions set forth in **Section 2.14** (Drainage).

3.6.7 Easements for Signage. Declarant hereby reserves to itself, together with the right and power to grant and transfer the same, for its benefit and with the prior consent of Declarant for the benefit of Neighborhood Builders, non-exclusive easements on, over, under, through and across the Property to install and maintain identification, promotional, and other signage (including, without limitation, banners, pennants, flags, balloons and similar displays) required or deemed necessary by Declarant or a Neighborhood Builder.

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

3.7 Easements in Favor of Community Association, Neighborhood Associations and Owners.

3.7.1 Cross Unit/Lot Drainage Facilities. Declarant and Neighborhood Builders hereby establish and reserve in favor of, and grant to, each Owner of a Separate Interest a non-exclusive appurtenant easement for drainage according to the drainage facilities installed and/or patterns created by Declarant or the applicable Neighborhood Builder in accordance with the approved grading plans for the Community, as well as according to the actual, natural and existing patterns for drainage. In the event the approved grading plans make provisions for cross Separate Interest drainage whereby water from a Separate Interest drains across one (1) or more contiguous Separate Interests by means of surface ditch or subsurface pipe or other facilities, each Owner affected by such cross drainage covenants and agrees for himself and his successors and assigns that he will permit free access by Owners (including the Community Association and any Neighborhood Association) of "upstream" Separate Interests (or Community Association Property or Neighborhood Association Property) to all drainage facilities located on his Separate Interest which affect such upstream properties when access is essential for the maintenance or permanent stabilization of retaining walls and/or slopes or maintenance of the drainage facilities that serve such upstream properties. Additionally, each Owner, for himself and his successors and assigns, covenants and agrees that he will not, in any way, interfere with the established drainage patterns over his Separate Interest or any drainage facilities located thereon. In the event it is necessary and essential to alter said drainage patterns or facilities for the protection and use of his Separate Interest, such Owner shall make adequate provision for proper drainage and shall obtain plans and specifications from a licensed soils or civil engineer and shall submit such plans and specifications to the Community Design Review Committee for prior review and approval. Further, each Owner, for himself and his successors and assigns, covenants and agrees that he shall maintain and repair all drainage facilities located on his Separate Interest in proper working order at all times, including keeping the facility free from dirt, debris and other obstructions.

3.7.2 Encroachments. Declarant hereby reserves to itself, together with the right and power to grant and transfer the same, for its benefit and with Declarant's prior consent, the benefit of Neighborhood Builders and for the benefit of the Community Association, each Neighborhood Association and, to the extent applicable, each Owner, as an appurtenance to the Separate Interests of such Person, over, upon and across all adjacent Separate Interests, for purposes of accommodating: (a) any minor encroachments of Improvements originally constructed on such Separate Interests whether such encroachment is expressly contemplated by any plans and specifications or is due to construction errors, settlement or shifting of Improvements, or similar causes (provided, however, that no such easement shall be deemed created if the encroachment occurred due to the willful conduct of the Community Association, a Neighborhood Association, Neighborhood Builders or any Owner); and (b) any encroachment of an

Improvement constructed on such Property substantially in accordance with the Plans approved pursuant to **Article 8** (Design Review) and expressly contemplated in such Plans (including without limitation balconies, light fixtures, signage fixtures, awnings, and similar items). The easement for the maintenance of the encroaching improvement shall exist for as long as the encroachments exist. Any easement of encroachment may, but need not be, cured by repair and restoration of the structure.

3.7.3 Drainage. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders and hereby grants to the Community Association, Neighborhood Associations and the Owners, non-exclusive easements for drainage through the established system of drainage pipes and facilities over, through, under and across the Separate Interests, Community Association Property, and Neighborhood Association Property. Such easements shall be subject to the restrictions set forth in **Section 2.14** (Drainage).

3.7.4 Utilities. Declarant hereby reserves to itself, for its benefit and the benefit of Neighborhood Builders and hereby grants to the Community Association, Neighborhood Associations and to the Owners, non-exclusive easements through and across the applicable portions of the Property for the placement and existence of Utility Facilities servicing the Community Association Property, Neighborhood Association Property, and Owners' Separate Interests in the location originally installed by Declarant or a Neighborhood Builder.

3.8 Limitations on Easements. 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 Community Declaration, shall be subject to the limitations set forth below.

3.8.1 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 Community Governing Documents, as well as the Final Maps and any other matters of record, including, without limitation, the Community Entitlements and any agreements recorded against the Property. Nothing in this Community Declaration shall be deemed to limit the right of Declarant or, with the prior consent of Declarant, Neighborhood Builders, the Community Association or a Neighborhood Association, to grant or reserve any additional easements over any portion of the Property to such grantees and for such purposes as Declarant, Neighborhood Builders, the Community Association or a Neighborhood Association may deem appropriate, provided that any such easements shall not be inconsistent with the easement rights granted in this Community Declaration by Declarant to memorialize the easements and other rights reserved to Declarant or Neighborhood Builders under this Community Declaration.

3.8.2 Restricted Access. Subject to the Community Governing Documents and the rights specifically reserved by Declarant, the Community Association shall have the right to: (a) limit and restrict the use of portions of the Community Association Property 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 Community Association Property as otherwise deemed necessary by the Community Association for health, safety, welfare, privacy or security purposes; (b) limit or permit usage of the Community Association Property by Persons as the Community Association deems appropriate; (c) limit the number of Persons using the Community Association Property; and (d) reasonably limit and restrict the access to and use of the Fuel Modification Zones, greenbelts, slopes, and/or other areas within the Community Association Property that are not intended for recreational use. Except to the extent restrictions on access are not authorized under the Community Entitlements, the Community Association and Declarant shall have the right to temporarily close or restrict access to the Community Association Property or Community 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 Community Association hereunder; provided, however, that the Community Association and Declarant shall not have the right to suspend the rights of Declarant and any Neighborhood Builder.

3.8.3 Suspend Rights. All of the easements are subject to the right of the Community Association, after Notice and Hearing, to temporarily suspend an Owner's rights as a Member to use the

facilities within the Community 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 Community Governing Documents. Notwithstanding anything to the contrary contained herein, in no event shall the Community Association suspend an Owner's easement or right of ingress and egress to and from such Owner's Separate Interest, or such Owner's easements for utilities servicing such Owner's Separate Interest.

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

3.8.5 Levy Charges. The Community Association shall have the right to levy charges for promotional and other events which it sponsors within the Community Association Property.

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

3.10 Assignment of Easements. Any of the easements hereunder reserved by Declarant may be assigned or transferred by Declarant to any Person, including to any Neighborhood Builders, without the consent of any Owners, the Community Association, or any Neighborhood Association.

3.11 Duration of Easements. Except for the rights of Declarant and Neighborhood Builders, the easement rights granted under this Community Declaration shall be for a term and duration coextensive with the Owner's title or interest in and to a Separate Interest. Upon conveyance of a Separate Interest, such rights shall pass to the successor Owner(s) of the Separate Interest being conveyed. All of the rights reserved to Declarant, and Neighborhood Builders shall continue so long as Declarant or any Neighborhood Builder owns any portion of the Property or the Annexable Property.

3.12 Light, Air and View. No Owner shall have an easement for light, air or view over the Separate Interest of another Owner or the Community Association Property or Neighborhood 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.

3.13 No Separate Conveyance. The interest of each Owner in the use and benefit of the Community Association Property and all other easements reserved and granted hereunder to each Owner shall be appurtenant to the Separate Interest owned by the Owner. No Separate Interest shall be conveyed by the Owner separately from the right to use the portions of the Community Association Property that are open for access by the Owners and their Invitees in accordance with the Community Governing Documents. Any conveyance of any Separate Interest shall automatically transfer the interest in the Owner's right to use the Community Association Property as provided in this Community Declaration and the Community Governing Documents without the necessity of express reference in the instrument of conveyance.

3.14 Delegation of Use. Any Owner entitled to the right of use of the Community Association Property to the extent provided in this Community Declaration or the other Community Governing Documents may delegate such Owner's rights to the Occupants who reside in such Owner's Separate Interest, subject to reasonable regulation by the Community Association and the Community Governing Documents. An Owner who has made such a delegation of rights shall not be entitled to use of the Community 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 4 THE COMMUNITY ASSOCIATION

4.1 The Organization. The Community Association is a nonprofit mutual benefit corporation formed under the nonprofit mutual benefit laws of the State of California. On the conveyance of the first Separate Interest to a First Owner, or such earlier date that Declarant may elect, the Community Association shall be charged with the duties and given the powers set forth in the Community Governing Documents. The Association shall be developed and maintained for the operational lifetime of the Community, subject to **Section 16.1** (Term). The Association shall operate and maintain all properties, buildings and amenities in accordance with the Specific Plan.

4.2 Community Association Action; Community Board and Officers; Members' Approval. Except as to matters requiring the approval of Members as set forth in the Community Governing Documents, the affairs of the Community Association shall be conducted by the Community Board and officers as the Community Board may elect or appoint. Such election or appointment shall be in accordance with the Community Governing Documents. Except as otherwise provided in Community 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 Community 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 Community Bylaws; or (c) in certain situations set forth in **Section 4.4** (Duties of the Community Association), such matters as are approved in accordance with the procedures set forth in **Section 4.4** (Duties of the Community Association). Meeting of the Members shall be held at least once per quarter with special meetings to occur on an as needed basis, due to special circumstances, in accordance with the Bylaws.

4.3 Powers of the Community Association. The Community 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 Community Governing Documents. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Community Association under the Governing Documents including, without limitation, the powers set forth below.

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

4.3.2 Assessments. The Community 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 Community Governing Documents.

4.3.3 Right of Enforcement. The Community Association shall have the power to: (a) take disciplinary action and/or assess monetary fines against a Neighborhood Association and any Owner for violation of the Community Governing Documents or violation of the Master Governing Documents by such Person or such Person's Invitees; (b) commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of the Community Governing Documents or the Master Governing Documents; (c) after Notice and Hearing, suspend the rights to use any portion of the Community Association Property or membership rights or privileges (other than voting rights); and/or (d) enforce by mandatory injunction, or otherwise, any resolutions of the Community Board or any provision of the Community Governing Documents or the Master Governing Documents. In addition, the Community 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 Community Governing Documents or Community Board resolutions, in accordance with

the procedures set forth in this Community Declaration and in the Community Bylaws; provided, however, that unless such suspension is due to a failure to pay Assessments pursuant to **Article 6** (Assessments), such suspension shall not last longer than sixty (60) days. In no event shall the Community Association (i) suspend an Owner's right and easement of access for ingress and egress over the Community Association Property to the extent necessary to provide access and utility service to the Owner's Separate Interest; or (ii) suspend an Owner's voting rights as a Member for so long as such Owner is a Member.

4.3.4 Enforcement of Neighborhood Governing Documents and Obligations. The Community Association shall have the right, but not the obligation, to review periodically the operation of the Neighborhood Associations, and the performance by a Neighborhood Association of its maintenance and other obligations to assure compliance with the Community Standards and the Community Governing Documents. The Community Association shall have the power, but not the obligation, to enforce the Neighborhood Governing Documents: (a) if the Community Association determines that the applicable Neighborhood Association is unable or unwilling to do so; or (b) if the Community Association determines, in its reasonable judgment, that it is in the best interests of the Community to do so. The Community Association also shall have the power to require that specific action be taken by a Neighborhood Association in connection with its obligations and responsibilities hereunder or under other covenants affecting the Property, including requiring specific maintenance or repairs that a Neighborhood Association undertake. The costs associated with such maintenance and repairs shall be the obligation of the Neighborhood Association.

4.3.5 Right of Entry. The Community Association shall have the power to enter in or onto any portion of the Property, to the extent reasonably necessary to perform the construction and Maintenance Obligations of the Community Association as required under the Community Governing Documents and the Community Entitlements and to exercise its enforcement rights under this Community Declaration. Any right of entry shall be exercised in accordance with the same requirements set forth in **Section 3.5.1** (Easements for Performance of Obligations and Enforcement of Rights). Notwithstanding the forgoing, in the event that there is an Emergency, the agents and representatives of the Community Board may enter such portion of the Property immediately and without notice for the sole purpose of taking such action as is necessary under the circumstances. In no event, however, may the Community Association enter into the interior of any Residence. Any damage caused by entry by the Community Association pursuant to the provisions of this Section shall be repaired by the Community Association. Such Persons shall not be deemed guilty of trespass by reason of such entry.

4.3.6 Delegation of Rights of Use. Subject to the Community Governing Documents, the Community Association shall have the power to exclusively use or to allow one (1) or more Neighborhood Associations, Owners or Occupants the exclusive use on a temporary basis of portions of the Community Association Property for events and functions, on terms and conditions that the Community Board deems appropriate, including charging such Neighborhood Association(s) or Owner(s) or Occupant for such exclusive use provided that until the Declarant's Rights Termination Date, the prior consent of Declarant shall be obtained. Such rights shall be subordinate to the rights reserved to Declarant under this Community Declaration.

4.3.7 Delegation of Powers; Professional Management. The Community Association shall have the power to delegate its powers, duties, and responsibilities to committees, employees, and the Community Manager.

4.3.8 Special Events, Promotional Events and Marketing. The Community Association shall have the power to provide, for the benefit of the Community Association, Neighborhood Associations and/or the Owners, special events, promotional events and marketing of the Community and to create and provide activities, services and programs intended to build and maintain a sense of community and the power to levy charges or fees for such events. Further, the Community Association shall have the power to levy use fees for payment by the sponsor or promoter of such events to cover the additional costs and services provided by the Community Association in connection with such events. Any such events shall be coordinated with and subject to the approval of Declarant until the Declarant's Rights Termination Date.

4.3.9 Permits for Special Events and Access. To further the sense of community, from time to time, Persons, including, without limitation, the Neighborhood Associations and other Owners, may desire to sponsor special events within the Property. The Community Association shall have the authority to issue permits or authorizations granting to such Persons and their Permitted Users, a nonexclusive license of access and use over some or all of the Community Association Property reasonably necessary to the operation of the special event.

4.3.10 Easements and Rights of Way. The Community Association shall have the power to exercise any of the easements and other rights granted to the Community Association under **Article 3** (Ownership and Easements), including, without limitation, the right to grant easements and licenses over the Community Association Maintenance Areas. The affirmative vote of a majority of Members shall be required before the Community Board may grant exclusive use of any portion of the Community 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.

4.3.11 Capital Improvements. Subject to the terms of this Community Declaration, the Community Association shall have the power to approve the construction, installation or acquisition of a particular capital improvement to the Community Association Property or Community Association Maintenance Areas.

4.3.12 Acquire Property. The Community 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 Community Association Property or Community Association Maintenance Areas, (ii) the administration of the affairs of the Community Association or (iii) the benefit of the Owners. The Community Association may dispose of the same by sale or otherwise.

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

4.3.14 Enter Into Agreements and Contracts. The Community 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 Entities,) and any Neighborhood Associations. Unless otherwise specified in the agreement or a Community Supplementary Declaration, any agreements entered into by Declarant with Governmental Entities relating to the Property shall be binding on the Community Association. Notwithstanding any other provisions of this Community Declaration regarding the term of contracts with Declarant for providing services to the Community Association, the Community Association shall have the power to enter into maintenance, use, subsidy or similar agreements with Declarant or any Neighborhood Builder. The Community Association shall have the power to contract for goods and services for the benefit of the Community Association Property and the Community that are necessary for the Community Association to perform its duties and obligations under the Community Governing Documents, Community Entitlements and/or as may be required by Governmental Entities, including engaging legal, management and accounting services. To the extent any such goods and services are provided solely to a Special Benefit Area, the Community Association may assess such costs solely to the Special Benefit Area as part of the Special Benefit Area Expenses.

4.3.15 Borrow Funds. The Community Association shall have the right and authority, in accordance with the Community Governing Documents, to borrow money for the purpose of improving, replacing, restoring or expanding the Community Association Property, the Community Association Maintenance Areas or for other purposes deemed reasonably necessary by the Community Board, 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 Community 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 Community Association Property, charging reasonable admission and fees, and, upon satisfaction of the debt, such Community Association Property shall be returned to the Community Association. Notwithstanding the foregoing, in no event may the Community Association borrow money to fund any litigation by the Community Association relating to the Community or the Improvements unless the consent of a majority of each class of Members is obtained.

4.3.16 Community Rules. The Community Board, by majority vote, shall have the power to adopt the Community Rules. The Community Board shall further have the power to amend the Community Rules as it deems appropriate relating to the use and operation of the Community. Notwithstanding any provision of this Community Declaration to the contrary and to the extent California Civil Code Section 4340, *et seq.* is applicable to the Community 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.*

4.3.17 Control Parking. Subject to the provisions of this Community Declaration, the Community 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 Community Declaration. The Community Board shall determine, in its sole discretion, whether there is a violation of the parking and vehicular restrictions set forth in this Community Declaration or established by the Community Board, and, if such noncompliance is determined by the Community Board to exist, the Community 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.

4.3.18 Assignment of Maintenance Responsibilities. The Community Association shall have the power to relinquish or assign its maintenance responsibilities to Governmental Entities, including without limitation, maintenance or assessment districts, utility companies and/or water, sewer or school districts, provided that such Governmental Entities shall have accepted such maintenance responsibility of the Community Association.

4.3.19 Special Benefit Areas. Subject to the restrictions set forth in **Section 6.8** (Special Benefit Area Assessments) of this Community Declaration and any other limitations set forth in this Community Declaration, the Community Association with the consent of Declarant at any time prior to the Declarant's Rights Termination Date, shall have the power to form and administer Special Benefit Areas in accordance with the Community Governing Documents. In connection with the administration of Special Benefit Areas, the Community Association shall have the power to establish Special Benefit Area Rules and may establish advisory committees for any Special Benefit Area. Such advisory committees may propose special rules and regulations with respect to Special Benefit Areas which may be adopted by the Community Association. The Community Association may also adopt special election procedures for the election of members of such advisory committees.

4.4 Duties of the Community Association. In addition to the powers described above, and without limiting their generality, the Community Association has the power and the obligation to perform duties set forth in this Community Declaration and the other Community Governing Documents, the Master Declaration and the other Master Governing Documents, subject to and in accordance with the Community Governing Documents, the Master Governing Documents, the Community Entitlements and Applicable Laws.

4.4.1 Applicable Laws, Community Entitlements and Community Governing Documents. The Community Association shall comply with all Applicable Laws and the Community Entitlements. The Community Association shall perform all duties that may be imposed on the Community Association in the Community Governing Documents and under the Master Governing Documents.

4.4.2 Master Governing Documents. The Community Association shall comply with the Master Governing Documents and shall perform all duties that may be imposed on the Community Association and shall undertake all reasonable efforts to enforce compliance by the Owners and Occupants

with the Master Governing Documents as described herein. The Community Association shall enforce against its Members and Occupants Users all restrictions and covenants set forth in the Master Governing Documents in accordance with California Civil Code Section 5855 and the Master Governing Documents and the Community Governing Documents. As may be required by the Master Association, the Community Association shall keep the Master Association apprised of enforcement proceedings. In the event an Owner or Occupant violates the requirements set forth in the Master Governing Documents, the Master Association shall have the right to notify the Community Association of such alleged violation and upon such notification by the Master Association the Community Association shall commence enforcement actions permitted to be taken hereunder and in accordance with Applicable Laws, subject to all requirements set forth herein including without limitation, obligations for a Notice and Hearing. After a Notice and Hearing, the Community Association shall have the right to (or upon request by the Master Association as to a violation of the Master Governing Documents, as such violation is determined to have occurred by the Community Association in such Notice and Hearing, the obligation to) temporarily suspend the right to use any amenity within the Community Association Property available for use by an Owner or Occupant; provided, however, that no such suspension shall occur without the required Notice and Hearing by the Community Association and in no event shall the Community Association deny any Owner or Occupant access to such Owner's Separate Interest or the use of any utilities benefitting such Owner's Separate Interest. The Community Association shall provide written notification to the Master Association of the occurrence and outcome of the Notice and Hearing, imposition of a lien (for violation of payment obligations hereunder), imposition of any fines and any other disciplinary action otherwise taken to enforce the Master Governing Documents; provided, however, that in no event shall the Community Association be obligated to provide information required to be maintained as confidential pursuant to Applicable Laws. If the Community Association determines that a violation of the Master Governing Documents has occurred, the Community Association shall be obligated to impose the fine, penalty and/or suspension of privileges for such violation as prescribed in the Master Governing Documents. In the event the Community Association determines, after a Notice and Hearing, that the alleged violation of the Master Governing Documents has not occurred and/or does not require disciplinary action, the Community Association shall notify the Master Association of such determination in writing, along with the reasons for the Community Association's determination. In the event the Master Association believes there has been a violation (notwithstanding the determination by the Community Association), the Master Association shall have such remedies as are available to the Master Association pursuant to Applicable Laws.

4.4.3 Acceptance of Property. The nature, design, quality and quantity of all Improvements to the Community Association Property and Community Association Maintenance Areas shall be determined by Declarant, in its sole discretion. The Community Association shall accept any Community Association Property and Community Association Maintenance Areas and Improvements situated thereon and any maintenance or other easements conveyed by Declarant or Neighborhood Builder, with Declarant's prior consent, and/or created under this Community Declaration and shall maintain, repair, replace, operate, and otherwise manage all of the Improvements and facilities required to be maintained by the Community Association, and all personal property acquired by the Community Association in accordance with the Community Governing Documents and the Community Entitlements. The Community Association shall execute each deed and any accompanying escrow instructions if requested to do so by Declarant or a Neighborhood Builder and execute any bond exonerations when presented if the bond obligations are satisfied. No Owner shall interfere with the exercise by the Community Association, Declarant or a Neighborhood Builder of its rights or the fulfillment of its obligations hereunder. The Community Board shall periodically review the nature and scope of the operations of the Community Association to assure such operations are in satisfactory compliance with the requirements of the Community Governing Documents and the Community Association Maintenance Manual. The Community Association shall comply with the requirements of any agreements entered into between Declarant, any Neighborhood Builder and Governmental Entities pertaining to the Community Association Property and Community Association Maintenance Areas. In the event that a dispute arises between Declarant, any Neighborhood Builder and the Community Association with respect to the nature, design, quality or quantity of such Improvements, or the acceptance of maintenance responsibilities therefor, the Community Association shall be obligated to accept title to the Community Association Property and any easements over the Community Association Maintenance Areas and undertake maintenance responsibilities therefore,

pending resolution of the dispute, in accordance with the provisions for enforcement set forth in **Article 16** (Term and Enforcement).

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

4.4.5 Taxes, Assessments and Liens. The Community Association shall pay all real and personal property taxes levied against the Community Association Property or any other taxes or assessments which could become a lien on the Community Association Property or any portion thereof. Such taxes and assessments may be contested by the Community 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.

4.4.6 Architectural Control. The Community Association shall promulgate architectural/design standards and procedures it deems appropriate, may appoint or remove members of the Community Design Review Committee and may hire a consultant in connection therewith in accordance with the provisions of **Article 8** (Design Review).

4.4.7 Community Rules. The Community Association shall adopt and be entitled to modify and enforce the Community Rules as it deems reasonable. The Community Rules shall govern the Community. However, the Community Rules shall not be inconsistent with or materially alter any provisions of the Community Governing Documents. A copy of the Community Rules, as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. In case of any conflict between any of the Community Rules and any other provisions of this Community Declaration, the conflicting Community Rules shall be deemed to be superseded by the provisions of the Community Declaration. The Community Association may also adopt rules applicable to Special Benefit Areas. Notwithstanding any provision of this Community Declaration to the contrary, and to the extent Civil Code Section 4340, *et seq.* is applicable to the Community 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.*

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

4.4.9 Community Maintenance Manual. The Community Association shall comply with the provisions of the Community Maintenance Manual. The Community Board may, from time to time, make appropriate revisions to the Community Maintenance Manual based upon the Community Board's review thereof, to update such manual to provide for maintenance according to industry practices, so long as such changes do not reduce the useful life or functionality of the items being maintained and provided that prior to the Declarant's Rights Termination Date, the prior consent of Declarant has been obtained.

4.4.10 Special Benefit Area Administration. The Community Association shall administer and perform any obligations associated with any Special Benefit Area.

4.4.11 Liens and Charges. The Community Association shall pay any amount necessary to discharge any lien or encumbrance upon the Community Association Property, and to the extent caused by the Community Association or its agents, employees or contractors, the Community Association shall pay any amount necessary to discharge any lien or encumbrance upon the Community Association Maintenance Areas or any other property or interest of the Community Association.

4.4.12 Minutes of Community Board Meetings. The Community Association shall supply copies of the minutes or a summary of the minutes of any meeting of the Community Board to Declarant and any requesting Neighborhood Builder within thirty (30) days of the applicable meeting of the Community Board for a period of ten (10) years after the conveyance of the last Separate Interest within the Property and Annexable Property by Declarant or a Neighborhood Builder to a First Owner.

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

4.4.14 Renewal of Permits. To the extent the Community Association has been assigned any obligation relating to storm water, conservation or other obligations for which a permit must be obtained from a Governmental Entity, the Community Association shall have the obligation to cause the renewal of such permits to comply with Applicable Laws or other Community Entitlements.

4.4.15 Collection of Master Association Assessments. The Community Association shall collect and pay to the Master Association, prior to delinquency, all Master Association Assessments levied pursuant to the Master Declaration. The Community Association shall comply with the requirements in the Master Declaration and other Master Governing Documents and invoice and collect the Master Association Assessments from its Members. The Community Association shall comply with any requirements imposed by the Master Association to provide membership rolls and information regarding delinquencies in the payment of Master Association Assessments. If an Owner fails to pay such Owner's share of the Master Association Assessments, the Community Association shall pay such amounts on behalf of the defaulting Owner and then take such actions as may be necessary to collect the delinquent Assessments from the defaulting Owner, including, without limitation, pursuing the remedies set forth in **Article 6 (Assessments)**. Each Owner and the Community Association acknowledge that payment of the portion of the Master Association Assessments charged by the Master Association as and when due, is essential to the Master Association's ability to perform its obligations pursuant to the Master Governing Documents and that inability of the Master Association to perform its obligations would negatively impact the Community.

4.5 Limitations on Authority of Community Board.

4.5.1 Actions Requiring Member Approval. The Community 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 5.2.2 (Class B Members)** is in effect; or (b) the vote at a meeting of the Community Association, or by written ballot without a meeting pursuant to Corporations Code Section 7513, of at least a majority of the Members including at least a majority of Members other than Declarant after conversion to a single Class A voting membership.

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

(b) Limit on Sales of Community Association Property. The Community Association shall not, without obtaining the consent of the Members as set forth above, sell during any Fiscal Year property of the Community Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Community Association for that Fiscal Year.

(c) **Limit on Compensation.** The Community 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 Community Association's business; provided, however, the Community Board may cause a member of the Community Board, an officer of the Community Association or a member of a committee of the Community Association to be reimbursed for expenses incurred in carrying on the business of the Community Association.

(d) **Limit on Third Person Contracts.** The Community 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 Community Association, Community Association Property or Community Association Maintenance Areas, for a term longer than one (1) year, with the following exceptions: (i) any 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) an agreement for cable television services, satellite television services, internet services, broadband services and 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; (iv) 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; (v) a prepaid casualty and/or liability insurance policy not to exceed three (3) years duration; provided that the policy permits for short-rate cancellation by the insured; (vi) a contract for a term not to exceed three (3) years that is terminable by the Community Association after no longer than one (1) year without cause, penalty or other obligations upon ninety (90) days written notice of termination to the other party; (vii) a contract which has been submitted to the DRE in connection with an application for a Public Report or for any other purpose; (viii) any agreement required to be entered into under the Community Entitlements; and (ix) any maintenance agreement for the maintenance of any portion of the Community Association Property and Community Association Maintenance Areas which is required as a condition to the effectiveness of any warranty in favor of the Community Association.

4.5.2 Special Benefit Area Limitation. Prior to the Declarant's Rights Termination Date, neither the Community 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 Community Association (other than Special Benefit Area Expenses) against fewer than all of the Owners and their Separate Interests without the consent of Declarant.

4.6 Prohibited or Restricted Activities. The Community Association is prohibited from undertaking or performing any of the following activities, or expending or using the funds or resources of the Community Association for any of the following prohibited activities unless approved by Declarant.

4.6.1 Political Activities. Until the Declarant's Rights Termination Date, the Community Association shall not engage in any federal, state or local political activities or activities intended to influence a governmental action. These activities include endorsement or support of legislative or administrative actions by a Governmental Entity, candidates for elected or appointed office, initiatives, recall elections or other ballot proposals. In no event shall the Community Association allow or authorize the placement of any political or similar signs on any Community Association Property or Community Association Maintenance Areas.

4.6.2 Reserved Rights of Declarant and Neighborhood Builders. For so long as Declarant or any Neighborhood Builder is entitled to exercise any right or avail itself of any exemption in **Article 9** (Development Rights) or elsewhere in this Community Declaration, neither the Community Association nor any Neighborhood Association or Owner shall take any action which is inconsistent with, or which would abrogate, any such right or exemption.

4.6.3 Members' Approval of Certain Actions. If any claim or other action is brought by the Community Association against Declarant, including, without limitation, claims brought under California Civil Code Section 895 *et seq.* involving allegations of construction defects relating to the Community Association Property and Community Association Maintenance Areas, the Community Association shall not initiate a further action under **Article 16** (Term and Enforcement) or otherwise without first obtaining the prior consent of the Members representing a majority of the Class A Voting Power (other than Declarant or Neighborhood Builders) of the Community Association.

4.6.4 Impair Release of Bonds or Other Security. The Community Association shall not take any actions which will impair or prevent Declarant or a Neighborhood Builder from obtaining the release of any bonds or other security posted with the City or other Governmental Entities.

4.7 Indemnification of Management Parties. No volunteer officer or volunteer director of the Community Board, Community Design Review Committee, Community Covenant Committee or of any other committee of the Community Association, or any officer of the Community Association, or Community Manager, or Declarant or any Neighborhood Builder, or any agent or employee or consultant of Declarant (each a "**Management Party**"), shall be personally liable to any Owner or other Person, including the Community 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 Community Association duties (collectively, an "**Official Act**"). The Community 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 Community Association when they are performing Official Acts for purposes of obtaining indemnification from the Community Association pursuant to this Section. The entitlement to indemnification under this Community Declaration inures to the benefit of the successors-in-interest of any Person entitled to such indemnification. The Community Association has the power, but not the duty, to indemnify any other Person acting as an agent of the Community Association for damages and expenses incurred (including, without limitation, reasonable attorneys' fees and costs), and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act. The Community 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 Community Association may impose.

4.8 Additional Provisions. Certain laws apply to the operation of the Community Association and the Property by the Community Association, including, without limitation, the Davis Stirling Common Interest Development Act of Section 4000, *et seq.* of the California Civil Code, and the Community Association, Neighborhood Associations, and Owners shall comply with all Applicable Laws.

ARTICLE 5 MEMBERSHIP AND VOTING RIGHTS IN COMMUNITY ASSOCIATION

5.1 Membership.

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

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

5.1.3 Approval by Members. Except as otherwise provided in the Community 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 Community 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 Community Bylaws.

5.1.4 Transfer of Membership. The Community Association membership of each Owner shall be appurtenant to each such Separate Interest, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Separate Interest 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 Separate Interest or interest in it shall operate automatically to transfer the appurtenant membership right in the Community Association to the new Owner.

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

5.2 Number of Votes. The Community Association shall have three (3) classes of voting membership, as described below. The voting rights described in **Sections 5.2.1** (Class A Members) and **5.2.2** (Class B Members) shall constitute the Voting Power of the Community Association:

5.2.1 Class A Members. Initially, Class A Members shall be all Owners, with the exception of Declarant and Neighborhood Builders (until the conversion of Declarant's Class B membership and Neighborhood Builders' Class B Membership to a Class A membership, as provided in **Section 5.2.2** (Class B Members)), and shall be entitled to one (1) vote for each Separate Interest that is subject to Assessment and owned by such Class A Members. Declarant and Neighborhood Builders shall become Class A Members upon conversion of the Class B Membership. When more than one (1) Person holds an interest in any Separate Interest, all such Persons shall be Members. The vote for such Separate Interest shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to such Separate Interest. The Class A votes allocated to Declarant and the Neighborhood Builders shall be exercised by Declarant.

5.2.2 Class B Members. Class B Member(s) shall be Declarant and any Neighborhood Builder, who shall be entitled to three (3) votes for each of the Separate Interests that are subject to Assessment and owned by Declarant or a Neighborhood Builder in a Phase for which Assessments have commenced. The Class B membership shall cease and be converted to Class A membership on the Conversion Date.

As long as Class B membership exists, no action by the Community 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 Community Declaration. Upon conversion to a single Class A voting membership, any action by the Community Association that must have the prior approval of the Members will require approval by at least a majority of the Members including at least a majority of Members other than Declarant.

5.2.3 Class C Membership. The Class C Member shall be Declarant (whether or not Declarant is an Owner). The Class C membership shall not be considered a part of the Voting Power of the Community Association and Declarant shall not be entitled to exercise any Class C votes except for the purpose of electing a majority of the members of the Community Board in accordance with the provisions

set forth below. The Class C Member shall be entitled to solely appoint a majority of the members of the Community Board until the Conversion Date.

5.3 Joint Owner Votes. The voting rights for each Separate Interest may not be cast on a fractional basis. If the joint Owners of a Separate Interest 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 Separate Interest, 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 Separate Interest. If more than one (1) Person exercises the voting rights for a particular Separate Interest, their votes shall not be counted and shall be deemed void.

5.4 Special Benefit Area Approvals. Notwithstanding any other provisions of the Community Governing Documents, any action which negatively impacts the Special Benefit Area Budget or Special Benefit Area Services of a 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 Community Declaration to eliminate or change the provisions of this Community Declaration relating to Special Benefit Areas shall only require the approval of the prescribed percentage of the class of Members or the approval of Members other than Declarant (if applicable) of those Members within such Special Benefit Area, except that if California Civil Code Section 5605 or any similar Applicable Laws require the approval of all Owners, then this provision shall not apply.

5.5 No Amendment. Notwithstanding anything to the contrary in this Community Declaration, this **Article 5** may not be amended without Declarant's prior written consent, until the Declarant's Rights Termination Date.

ARTICLE 6 ASSESSMENTS

6.1 Creation of Lien and Personal Obligation for Assessments. Declarant and each Neighborhood Builder, for each Separate Interest owned within the Property, hereby covenant, and each Owner of a Separate Interest 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 Community Association all Community Assessments levied pursuant to the provisions of this Community Declaration. All Community Assessments levied hereunder, together with Additional Charges, shall be a charge on the land and shall be a continuing lien upon the Separate Interest of such Owner against which each such Assessment is made, the lien to be effective upon recordation of a notice of delinquent Community Assessments. Each such Community Assessment, together with Additional Charges, shall also be the personal obligation of the Person who was the Owner of such Separate Interest at the time when the Assessment fell due and shall bind its heirs, devisees, personal representatives and assigns. The personal obligation for delinquent Community 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 Separate Interest, the lien was levied from personal liability for delinquent Community Assessments. If more than one Person is the Owner of a Separate Interest, the personal obligation to pay such Community Assessment or installment with respect to such Separate Interest shall be both joint and several.

6.2 Funds Held in Trust. The Community Assessments collected by the Community Association shall be held by the Community 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 Separate Interest, 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 Community Association. The Community Association shall provide for separate operating accounts and separate reserve accounts for the funds which are collected and expended on behalf of each Special Benefit Area. Such Special Benefit Area funds shall be used by the Community Board solely for the purposes for which they were collected as provided in the Special Benefit Area Budget.

6.3 Purpose of Assessments. The Community Assessments levied by the Community Association shall be used exclusively to perform the obligations and duties of the Community Association, including, without limitation, payment of Master Association Assessments, the improvement and maintenance of the Community Association Property and Community Association Maintenance Areas and for any other maintenance responsibilities of the Community Association, and to reimburse the Community Association for the costs incurred in bringing an Owner into compliance with the Community Governing Documents. The Community 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 Community Association decides to use or transfer reserve funds to pay for litigation, the Community 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 Community Association's office. The accounting shall be updated monthly.

6.4 Regular Assessments.

6.4.1 Payment of Regular Assessments. The Community Assessments for Common Expenses ("Regular Assessments") for each Fiscal Year shall be established when the Community Association approves the Budget for that Fiscal Year, which Budget shall be prepared in accordance with the provisions of the Community Governing Documents. Regular Assessments shall be levied on a Fiscal Year basis. Unless otherwise specified by the Community Board, Regular Assessments shall be due and payable in monthly installments on the first day of each month during the term of this Community Declaration. Notwithstanding the foregoing, Special Benefit Area Assessments shall be levied to satisfy the component(s) of Common Expenses attributable to Special Benefit Area Expenses, as provided in **Section 6.8** (Special Benefit Area Assessments). Declarant's obligation or subsidy for Regular Assessments and/or Special Benefit Area Assessments may be reduced in accordance with the terms of any maintenance or subsidy agreement executed by Declarant and the Community Association.

6.4.2 Budgeting. Each fiscal year the Community Association shall prepare, approve and make available to each Member a Budget as described in the Community 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.

6.4.3 Restrictions for Tax Exemption. As long as the Community 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 Community Board shall prepare its annual Budget and otherwise conduct the business of the Community Association in such a manner consistent with federal and state requirements to qualify for such status.

6.4.4 Reallocation of Assessments. After conveyance of the first Separate Interest in a Phase to a First Owner, the Assessments shall be reallocated among all Separate Interests located in Phases in which the conveyance of a Separate Interest to a First Owner has occurred, in the same manner as described in this Article.

6.4.5 Non-Waiver of Assessments. If the Community 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.

6.4.6 Supplemental Assessments. If the Community Board determines that the Community Association's essential functions may be properly funded by a Regular Assessment in an amount less than the maximum authorized Regular Assessment described above, it may levy such lesser Regular Assessment. If the Community Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, it shall determine the approximate

amount of the inadequacy. Subject to the limitations described in **Section 6.10** (Changes to Assessments), the Community Board may levy a supplemental Regular Assessment reflecting a revision of the total charges to be assessed against each Separate Interest.

6.5 Special Assessments. If the Community Association determines at any time that the estimated total amount of funds necessary to fund the Common Expenses of the Community 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 on, or damage and destruction or condemnation of, the Community Association Property and Community Association Maintenance Areas or any other areas which the Community Association is obligated to maintain, the Community 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 6.10** (Changes to Assessments); provided, however, that such limitation shall not apply to Special Assessments levied by the Community Board to replenish the Community Association's reserve account as provided in the Article of the Community Bylaws entitled "Community Association's Accounts." The Community Board may, in its discretion, prorate such Special Assessment over the remaining months of the Fiscal Year or levy the Assessment immediately against each Separate Interest as to which Community Assessments have commenced. The Community Association must comply with California Civil Code Section 5610.

6.6 Capital Improvement Assessments. In addition to any other Assessments provided for hereunder, the Community 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 Community Board shall designate. Capital Improvement Assessments shall be subject to the limitations set forth in **Section 6.10** (Changes to Assessments).

6.7 Compliance Assessments. The Community Association may levy an assessment ("**Compliance Assessment**") against any Owner for bringing the Owner or the Owner's Separate Interest into compliance with the provisions of the Community Governing Documents, Master Governing Documents and/or any other charge designated a Compliance Assessment in the Community Governing Documents, together with any Additional Charges. The Community Association shall have the authority to adopt a reasonable schedule of Compliance Assessments for any violation of the Community 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 Community 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 Community Association to administer the foregoing and to the extent the Compliance Assessment is being levied due to a violation of the Master Governing Documents, the Master Association shall have the right to participate in such hearing committee. Notwithstanding any other provision in this Community Declaration to the contrary, except as provided in **Section 6.15** (Collection of Assessments; Liens), Compliance Assessments imposed by the Community Association are Assessments but they may not become a lien against the Owner's Separate Interest that is enforceable by a power of sale under California Civil Code Sections 2924, 2924b and 2924c; provided, however, that this restriction on enforcement does not apply to Additional Charges.

6.8 Special Benefit Area 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 Community Association forms any additional Special Benefit Areas, the Community Association shall obtain a vote of a majority of the Owners benefited by the proposed Special Benefit Area. When the necessary approvals are obtained, the Special Benefit Area shall be described in a Community Supplementary Declaration recorded by the Community Association. Prior to the Declarant's Rights Termination Date, the Community Association shall obtain the consent of Declarant prior to forming an additional Special Benefit Area. Nothing contained herein shall give the Community Association or any Owner any rights to approve Special Benefit Areas established by

Declarant upon the recordation of this Community Declaration or the recordation of a Community Supplementary Declaration.

6.9 Master Association Assessments. The Community Association shall collect all Master Association Assessments levied pursuant to the Master Declaration, concurrently with the collection of the other Community Association Assessments levied hereunder in accordance with **Section 4.4.15** (Collection of Master Association Assessments). In the event an Owner fails to pay such Owner's share of the Master Association Assessments, together with the other Assessments of the Community Association, the Community Association shall have, and shall be obligated to exercise and enforce, all of the rights and remedies provided for in this **Article 6**, including, without limitation, the lien rights and foreclosure rights set forth herein and the Master Association, subject to compliance with Applicable Laws shall have all rights to direct the Community Association's obligation to exercise and enforce assessment payment obligations set forth herein, and the Community Association shall be obligated to undertake such enforcement. If an Owner fails to pay such Owner's share of the Master Association Assessments, the Community Association shall pay such amounts on behalf of the defaulting Owner and then take such actions as may be necessary to collect the delinquent Assessments from the defaulting Owner, including, without limitation, pursuing the remedies set forth in this **Article 6**. The Master Association shall have all remedies available pursuant to the Master Declaration and available pursuant to Applicable Law (including, without limitation, rights to specific performance) to enforce the obligations set forth in this **Article 6** against the Community Association.

6.10 Changes to Assessments.

6.10.1 Limitation on Assessments. From and after January 1st of the year immediately following the conveyance of the first Separate Interest to a First Owner, the maximum 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 Community 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 Community Association conducted in accordance with the provisions of: (a) California Civil Code Section 5100, et seq. and the rules adopted by the Community Board pursuant thereto; and (b) California Corporations Code Sections 7510, et seq. and 7613. The Community 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, 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 Community Association Property, Community Association Maintenance Areas, or other portions of the Community that the Community Association is obligated to maintain where a threat to personal safety is discovered; or (c) an extraordinary expense necessary to repair or maintain the Community Association Property, Community Association Maintenance Areas, or other portion of the Community that the Community Association is obligated to maintain that could not have been reasonably foreseen by the Community Board in preparing and distributing the Budget required under this Community Declaration and the Community Bylaws and California Civil Code Section 5300. Notwithstanding the foregoing, any increase in Special Benefit Area Assessments which requires the approval of Members pursuant to this Section shall only require the approval of the Members within such impacted Special Benefit Area and shall not require the approval of the Members whose Separate Interests are not located within the Special Benefit Area.

6.10.2 Calculation of 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 Separate Interest 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

Community Board has complied with the budgetary requirements set forth in the Community Bylaws with respect to the Fiscal Year for which an Assessment is being levied.

6.10.3 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 DRE's approval, has established a range of assessments in accordance with a budget on file with and reviewed by 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 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 **Section 6.10** (Changes to Assessments).

6.11 Allocation of Assessments. The Assessments shall be allocated as set forth below.

6.11.1 Regular Assessments – General Assessment Component. The Regular Assessments, exclusive of the portion of Common Expenses attributed to the Special Benefit Area Expenses that are included within a Special Benefit Area Budget, shall be allocated and such Regular Assessments assessed among all of the Separate Interests to which Assessments have commenced and shall be fixed at a uniform rate for all Separate Interests.

6.11.2 Regular Assessments - Special Benefit Areas Component. The portion of the Regular Assessments budgeted exclusively to a particular Special Benefit Area in a Special Benefit Area Budget shall be allocated and assessed solely to the Owners within the applicable Special Benefit Area at a uniform rate determined by dividing the total amount of the Special Benefit Area Assessment by the total number of Separate Interests within the Special Benefit Area subject to such Assessment, unless a different rate is specified in a Community Supplementary Declaration. The Community Association shall provide for a separate operating account and separate reserve account for the funds which are collected and expended on behalf of a Special Benefit Area. The Community 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.

6.11.3 Other Community 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 Separate Interests in a manner consistent with the provisions of **Section 6.7** (Compliance Assessments).

6.12 Commencement of Assessments. Regular Assessments shall commence as to all Separate Interests in a Phase subject to this Community Declaration on the first day of the month following the conveyance of the first Separate Interest in that Phase to First Owner. Notwithstanding the foregoing, Declarant or a Neighborhood Builder may elect to commence to pay Regular Assessments for a Phase prior to the conveyance of a Separate Interest in such Phase to a First Owner, in such case, Declarant or the Neighborhood Builder shall have the voting rights as to the Separate Interest in such Phase pursuant to **Section 5.2** (Number of Votes).

6.12.1 Model Homes. In no event shall any sale or leaseback by Declarant or a Neighborhood Builder of any Separate Interest being used as a model home, sales office, design center, construction office or similar purpose ("**Model Home**") and which is not occupied as a residence cause the commencement of Assessments if Assessments have not otherwise commenced through a conveyance of a Separate Interest in the Phase to an Owner who will occupy the Residence. Declarant or the applicable Neighborhood Builder shall be responsible to insure and maintain all portions of the Phase in which the Model Home is located until the date Regular Assessments commence against the Separate Interests being used as a Model Home.

6.13 Notice and Assessment Due Dates. The Community 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 Community Association. The due date for Special Assessments or Capital Improvement Assessments shall be specified in the notice provided by the Community 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 Community 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.*

6.14 Estoppel Certificate. On not less than ten (10) days' prior written request, the Community 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 Community Association, a particular Owner is in default in connection with the payment of Assessments as to such Owner's Separate Interest; and (b) the dates to which installments of Assessments, have been paid as to such Separate Interest. Any such statement may be relied on by any prospective purchaser or Mortgagee of the Separate Interest, but reliance on such statement may not extend to any default not involving the payment of Community Assessments of which the signer had no actual knowledge.

6.15 Collection of Assessments; Liens.

6.15.1 Right to Enforce. The right to collect and enforce Assessments is vested in the Community Board acting for and on behalf of the Community Association. The Community Board may enforce the obligations of the Owners to pay Community Assessments provided for in this Community Declaration by commencement and maintenance of a suit at law or in equity, or the Community Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to **Section 6.15.5** (Notice of Default; Foreclosure) 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 Community Association as a disciplinary measure for failure of a Member to comply with the Community Governing Documents or as a means of reimbursing the Community Association for costs incurred by the Community Association in the repair of damage to Community Association Property or any Community Association Maintenance Areas for which the Member was allegedly responsible or in bringing the Member and his or her Separate Interest into compliance with the Community Governing Documents may not be characterized nor treated as an Assessment that may become a lien against the Member's Separate Interest enforceable by a sale of the interest hereunder. The limitation in the preceding sentence; however, does not apply to any Additional Charges.

6.15.2 Notice of Assessments and Foreclosure. The Community 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 Community Association's Fiscal Year.

6.15.3 Delinquent Assessments. In collecting delinquent Assessments, the Community Association shall comply with the requirements of California law, including, without limitation, California Civil Code Section 5650. As of the date of this Community Declaration, such laws require that, among other things, before the Community Association records a lien against the Owner's Separate Interest, the Community 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 Community Association's "meet and confer" program required by California Civil Code Sections 5900 through 5920.

6.15.4 Assignment. The Community Association may not voluntarily assign or pledge the Community 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.

6.15.5 Notice of Default; Foreclosure. The Community 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 Separate Interest 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 Community Board is authorized to appoint a trustee for purposes of conducting the sale. If a delinquency is cured before sale of the Separate Interest or before completing a judicial foreclosure, or if it is determined that a lien previously recorded against a Separate Interest was recorded in error, the Community 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 Separate Interest to the Community Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Community Association, be enforced by the Community Association through specific performance). The Community Association, acting on behalf of the Owners, shall have the power to bid upon the Separate Interest at foreclosure sale and to acquire, hold, lease, mortgage and convey the Separate Interest and vote as an Owner of the Separate Interest.

6.15.6 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 Separate Interest 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 Separate Interest for which the lien is being filed as provided in California Civil Code Section 5675.

6.15.7 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 Community Association shall provide a receipt which sets forth the date of payment and the individual who received such payment.

6.16 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 Community Association including such additional costs, fees, charges and expenditures as the Community 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.*

6.17 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.

6.18 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 Separate Interest prior and superior to all other liens, except: (a) all taxes; (b) bonds; (c) assessments and other levies that, by Applicable Laws, would be superior thereto; and (d) any First Mortgage now or hereafter placed upon any Separate Interest subject to Assessment. The sale or transfer of any Separate Interest pursuant to judicial or non-judicial foreclosure of a First Mortgage, or pursuant to the remedies provided in the First Mortgage, shall extinguish the lien of such Community Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Separate Interest from any Community Assessments thereafter becoming due or from the lien of any subsequent Community Assessment. Where

the Mortgagee of a First Mortgage or other purchaser of a Separate Interest obtains title to the same as a result of foreclosure or pursuant to the remedies provided in the First Mortgage, such acquirer of title, and his or her successors and assigns, shall not be liable for the share of the Common Expenses or Community Assessments chargeable to such Separate Interest that became due prior to the acquisition of title to such Separate Interest by such acquirer, except for a share of such charges or Community Assessments resulting from a reallocation of such charges or Community Assessments that are made against all Separate Interests.

6.19 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 Community Association is not properly exercising its duties of maintenance, operation or enforcement.

6.20 Personal Liability of Owner. No Owner may exempt himself, herself or itself from personal liability for Community Assessments, nor any part thereof, levied by the Community Association, nor release the Separate Interests owned by him or her from the liens and charges hereof by waiver of the use and enjoyment of the Community Association Property and facilities located thereon, or by abandonment of such Owner's Separate Interest.

6.21 Transfer of Separate Interests. After transfer or sale of a Separate Interests, the selling Owner(s) shall not be liable for any Assessment levied on such Separate Interests after the date of transfer of ownership and written notice of such transfer is delivered to the Community Association. The selling Owner shall remain responsible for all Community Assessments and charges levied on his or her Separate Interests prior to any such transfer.

6.22 Failure to Fix Assessments. The omission by the Community Board to fix the Community 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 Community Declaration or a release of the Owner from the obligation to pay the Community Assessments or any installment thereof for that or any subsequent Fiscal Year, but the Community Assessment fixed for the preceding Fiscal Year shall continue until a new Assessment is fixed.

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

6.24 Uncompleted Facilities. Although no land or Improvements devoted to dwelling use in the Community shall be exempt from Assessment, the Community 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 Community 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 Improvements has been recorded; or (b) the Improvements have been placed into use.

6.25 Community Association Property Improvements. If the Improvements to be installed by Declarant or a Neighborhood Builder on the Community Association Property in a Phase have not been completed prior to the issuance by the DRE of a Public Report covering the Phase, and in the further event that the Community Association is the obligee under a bond to secure performance by Declarant or the Neighborhood Builder 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 Community Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Community Association has given an extension in writing for the completion of any such Improvement, then the Community 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 Community Board determines after the expiration of any written extension(s) 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, excluding the Voting Power of Declarant and Neighborhood Builders, the Community Board shall call a special meeting of the Members to consider the question of overriding the decision of the Community Board or of requiring the Community 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, excluding the vote of Declarant and Neighborhood Builders, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Community Association, and the Community Board shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Community Association.

6.26 Collection of Community Assessments by Neighborhood Associations.

6.26.1 Obligation of Neighborhood Association to Collect Assessments. Each Neighborhood Association shall have the obligation on behalf of the Community Association to collect Community Assessments levied against the Separate Interests under its jurisdiction from the Owners thereof and to pay such Community Assessments to the Community Association. The Neighborhood Association shall have the absolute obligation to pay such Community Assessments regardless of whether an individual Owner has paid the amounts allocable to such Owner to the Neighborhood Association. Without limiting such absolute obligation to pay such amounts, the Neighborhood Association shall have the obligation to pursue any defaulting Owner in accordance with the terms of the Neighborhood Governing Documents. Each Neighborhood Association shall also have the right to collect any delinquent Assessments in accordance with **Section 6.15** (Collection of Assessments; Liens). If the Neighborhood Association fails to pay the amounts levied hereunder, then the Community Association may exercise the rights set forth in **Section 6.26.2** (Election by Community Association to Collection Assessments).

6.26.2 Election by Community Association to Collect Assessments. At any time the Community Association may elect, in its sole discretion, including without limitation, a determination by the Community Association that the Neighborhood Association is not performing its obligations under **Section 6.26.1** (Obligation of Neighborhood Association to Collect Assessments) to collect the Community Assessments from an Owner in lieu of having the Neighborhood Association collect such Community Assessments, in which case the Owner shall pay such Community Assessments directly to the Community Association when due. The Community Association shall also have the right to collect the Community Assessments from some, but not all of the Neighborhoods. If the Community Association elects to collect the Community Assessments, the Community Association shall either provide notice to the Neighborhood Association, which shall then provide notice to the Owners or provide notice directly to the Owners. Any such notice shall specify the date when the Community Association's election to collect the Community Assessments shall be effective, which date shall be no less than thirty (30) days after delivery of such notice.

ARTICLE 7 MAINTENANCE RESPONSIBILITIES

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 Community Association, a Neighborhood Association or Owner. To the extent repair, restoration and replacement is required as a result of damage or destruction under **Article 11** (Destruction of Improvements and Condemnation), then the repair and replacement shall be governed by the provisions of **Article 11** (Destruction of Improvements and Condemnation). As required by the City, the following language is hereby included in this Declaration: "Maintenance provisions for parks less than 3 acres in size, view parks, common areas, open space, conservation easements, and trails shall be created to ensure that the project is maintained satisfactorily. The provisions shall include, but need not be limited to the trail systems; retention/detention and other drainage facilities; recreational facilities; including open areas and landscaped

areas; walls, gates, fences and signage; and maintenance of buildings within parks and the heritage preserve.”

7.2 Maintenance Obligations of the Community Association. The Community Association shall be responsible for maintaining and otherwise caring for all Community Association Property and Community Association Maintenance Areas in a clean, attractive and first-class condition, free from waste and debris in accordance with the Maintenance Obligations and in accordance with all requirements of Governmental Entities, Community Standards and the Community Governing Documents. The Community Association’s Maintenance Obligations shall include, without limitation, the obligations described below:

7.2.1 Community Association Property and Community Association Maintenance Areas. The Community Association shall maintain the Community Association Property and Community Association Maintenance Areas in a good condition of repair, including all Improvements, landscaping, irrigation and monument signs located on or in the Community Association Property or Community Association Maintenance Areas. The Community Association shall maintain all landscaping within the public right of way immediately adjacent to Community Association Property and/or Community Association Maintenance Area in a disease free and thriving condition, other than such landscaping that is maintained by a Governmental Entity. The Community Association shall maintain the Fuel Modification Zones that are annexed into the Community and that are to be maintained by the Community Association in accordance with the applicable Fuel Modification Plan.

7.2.2 Private Streets. The Community Association shall maintain the Private Streets that have been designated as Community Association Property or Community Association Maintenance Areas in good condition and sweep and re-surface the Private Streets at the frequencies specified in the Budget, or as necessary to repair conditions that pose an imminent threat of damage to property or injury to Persons. Significant pavement cracks, pavement distress, excessive slab settlement, abrupt vertical variations, and debris should be removed or repaired promptly.

7.2.3 Storm Water and Drainage Improvements. The Community Association shall maintain the Storm Water and Drainage Improvements within the Community Association Property and Community Association Maintenance Areas, as set forth in **Section 2.14** (Drainage) and **Section 2.15** (Storm Water Pollution and Best Management Practices). Such maintenance shall be performed in accordance with all Governmental Entities and Applicable Laws.

7.2.4 Walls and Fences. The Community Association shall maintain all walls and fences located within the Community Association Property that are not the responsibility of an Owner to maintain under **Section 7.4.1(d)** (Walls and Fences). In addition, the Community Association shall maintain those walls and fences indicated as a “Community Association Wall” (“**Community Association Wall**”) or Community Association Retaining Wall (“**Community Association Retaining Wall**”) in any Community Supplementary Declaration and/or the Community Maintenance Exhibit, as provided in this Section.

(a) Community Association Walls. Notwithstanding the obligation of the Owners to maintain the Community Association Walls, as provided in **Section 7.4.1(d)** (Walls and Fences), the Community Association shall maintain the surface of the Community Association Wall facing Community Association Property, public property or any property other than the Owner’s Separate Interest. Such maintenance shall include, without limitation, the prompt removal of all graffiti from the Community Association Walls.

(b) Community Association Retaining Walls. The Community Association shall maintain all surfaces, front, back and top, and the structural integrity of any Community Association Retaining Walls.

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

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

7.3 Maintenance by Neighborhood Associations. Each Neighborhood Association shall maintain those areas designated for maintenance in a Community Supplementary Declaration or Neighborhood Governing Documents, including without limitation, any real property owned by the Neighborhood Association unless otherwise designated in a Community Supplementary Declaration.

7.4 Maintenance Obligations of Owners.

7.4.1 Maintenance of Improvements Except for the Community Association Maintenance Areas and except for any Improvements the maintenance of which has been delegated to a Neighborhood Association in the applicable Neighborhood Governing Documents, each Owner shall maintain in a clean, attractive and first-class condition, free from waste and debris, at the Owner's sole expense, all of the Owner's Separate Interest and the Improvements thereon, as directed in the Community Governing Documents and any Owner Maintenance Manual, and in accordance with all Applicable Laws. No Person shall modify, maintain or remove from the Separate Interest any Improvements that are designated as Community Association Maintenance Areas in this Community Declaration or a Community Supplementary Declaration. Owner-maintained Improvements shall include the following:

(a) **Landscaping.** All Owner-maintained landscaping shall be maintained in a disease free and thriving condition. Owners are responsible for maintaining any landscape and hardscape areas (for example, paved walks, driveways and patios) on the Separate Interest, if not designated Community Association Maintenance Areas in the Community Governing Documents. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic and root-pruned to prevent root damage to driveways and structures. Trees shall be maintained so they do not unreasonably intrude, leave droppings or create other nuisances on neighboring properties. No Owner or other person may interfere with or prevent authorized maintenance activities in the Separate Interest by the Community Association or a Neighborhood Association. Each Owner shall maintain the Fuel Modification Zones that are located on such Owner's Separate Interest and that are to be maintained by such Owner in accordance with the applicable Fuel Modification Plan. Each Owner shall maintain all landscaping within the public right of way immediately adjacent to the Owner's Separate Interest and/or the parkway within the Private Street immediately adjacent to the Owner's Separate Interest in a disease free and thriving condition, other than such landscaping that is in any area designated as Community Association Maintenance Area in the Community Governing Documents or such landscaping that is maintained by a Governmental Entity.

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

(c) **Storm Water and Drainage Improvements.** Declarant and Neighborhood Builders may have installed one or more Storm Water and Drainage Improvements on or within the Separate Interest as part of the surface water drainage plan for the Community. Any Storm Water Drainage Improvements on or within the Separate Interest that are not designated Community Association Maintenance Areas shall be maintained as detailed in **Section 2.14** (Drainage) and **Section 2.15** (Storm Water Pollution and Best Management Practices).

(d) **Walls and Fences.** The walls in the Property located on or within one foot of a property line of a Separate Interest are divided into the categories listed in this Section and shall be maintained as required by this Section.

(i) **Party Walls Separating Separate Interests.** Each wall or fence which is placed on the dividing line between the Separate Interests ("Party Wall") is a party wall. The cost of reasonable maintenance of a Party Wall shall be shared equally by the Owners of the Separate Interests divided by the Party Wall. However, each Owner is responsible for repainting and maintaining the side of any Party Wall facing the Owner's Separate Interest. Unless covered by a blanket insurance policy kept by the Community Association, if a Party Wall is destroyed or damaged, any Owner whose Separate Interest is affected thereby may restore it as previously built, unless another design has been approved by the Community Design Review Committee and the other Owner, and the Owner of the other Separate Interest which is affected thereby shall contribute equally to the cost of restoration. An Owner who negligently or willfully causes a Party Wall to require maintenance shall bear the whole cost of the necessary maintenance. The right of any Owner to contribution from any other Owner under this Subsection is appurtenant to each Owner's Separate Interest and passes to such Owner's successors in title.

(ii) **Walls and Fences Separating Separate Interests from Other Property.** Each Owner shall maintain all surfaces, front, back and top, and the structural integrity of any wall or fence that (a) is not a Community Association Retaining Wall or Community Association Wall, (b) separates the yard area of the Owner's Separate Interest from Community Association Property, public property or any other property, and (b) is not described in **Section 7.4.1(d)(i)** (Party Walls Separating Separate Interests). Each Owner shall maintain all surfaces, front, back and top, and the structural integrity of any wall or fence that is a Community Association Wall, other than the surface of the Community Association Wall facing Community Association Property, public property or any property other than the Owner's Separate Interest, which surface shall be maintained by the Community Association, as described in **Section 7.2.4** (Walls and Fences). If an Owner fails to perform needed maintenance, the Community Association may perform the maintenance and assess the Owner for all associated costs. The Community Association may establish approved colors and authorized contractors that must be used when maintaining these walls and fences.

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

(f) **Photocell Lighting.** Each Owner shall maintain any photocell controlled fixtures installed by Declarant or a Neighborhood Builder on such Owner's Residence, in working condition.

(g) **Private Laterals.** Each Owner shall be responsible for maintenance of all portions of any private utility lateral servicing such Owner's Separate Interest, including but not limited to private sewer clean out and private sewer lateral to the point of connection with the public sewer line. All such maintenance shall be performed in accordance with the requirements set forth in this **Section 7.4.1(g)** (Private Laterals) and all Applicable Laws, including any standards or requirements of the City. Except in the event of Emergency, in which case no prior notice shall be necessary, an Owner needing to access such Owner's lateral for maintenance, repair or replacement purposes ("**Work**") shall provide written notification to the Community Association of such Owner's intention to access the lateral or line ten (10) business days prior to commencing such Work. The notification shall include the name and license number of the contractor that will perform the Work. The Work shall be performed by a California licensed contractor and the Community Association shall be named as an additional insured on such contractor's policy of liability insurance, which liability insurance shall have a minimum coverage amount of One Million Dollars

(\$1,000,000). The Owner performing the Work and his or her contractor shall use commercially reasonable efforts to minimize damage to surface Improvements and shall minimize interference with access to the other Separate Interests utilizing the affected area for access purposes. The Owner shall be responsible for replacing all dirt removed or moved in connection with the Work. The Community Association shall be responsible for restoring the surface Improvements within the disturbed area to the condition they were in prior to the Work being performed; provided, however that the cost associated with restoring such Improvements shall be paid by the Owner performing the private sewer lateral and/or waterline Work. The Community Association shall have the right to require the Owner to pay the contractor selected by the Community Association directly, or the Community Association may pay the contractor and seek reimbursement from the Owner for the costs paid. The Community Association shall obtain bids from three (3) licensed contractors. Provided that the total cost of each bid is within five (5%) of the total cost of the other bids, the Community Association may select a contractor in the Community Association's sole and absolute discretion. In the event the total cost of the bids varies by more than five percent (5%) the Community Association shall select the bid falling within the middle of the high and the low bid. Any failure by the Owner to pay the amounts due for the Community Association's contractor's work may be assessed to the applicable Owner as a Compliance Assessment.

(h) Recycled Water Irrigation System.

(i) Maintenance. Owners are responsible for the following maintenance of the front, rear and sideyard recycled water irrigation systems on their Separate Interest, which systems are described in more detail in **Section 2.17.1** (Recycled Water Irrigation).

(1) Perform regular inspections of the entire recycled water systems, including sprinkler heads, drip irrigation system emitters, spray patterns, water lines and valves. Immediately repair all broken or faulty sprinkler heads that cause overspray, leakage or ponding, all leaking water lines and valves, and any other conditions that violate the recycled water use requirements.

(2) Check all recycled water identification signs, tags stickers and above-grade water line markings for their proper placement and legibility. Replace damaged, unreadable, or missing signs, tags, stickers, and water line markings.

(3) Check spray patterns to eliminate ponding, runoff and windblown spray conditions. If evidence of ponding or runoff is noted, sprinkler heads should be adjusted to prevent further ponding or runoff.

(ii) Site Supervisor. Each owner shall restrict the use of recycled water to those uses set forth in the Water District Policies and Standards for recycled water services. Each Owner must have completed the Site Supervisor Training class offered by the Water District. Site Supervisors are to know the following restrictions on the use of recycled water:

(1) Recycled water, although highly treated, is non-potable (not drinking water) and must never to be used for human consumption.

(2) Water District Policies and Standards prohibit ponding, windblown spray and runoff of recycled water.

(3) State law prohibits a connection between the recycled water and drinking water systems.

(iii) Site Supervisor Transfer Due to Owner Transfer. If an Owner's Separate Interest is transferred to a new Owner or tenant, the recycled water customer must notify the Water District within 10 days after the transfer to receive a new Recycled Water Use Permit. The Owner of a Separate Interest occupied by a tenant remains responsible for proper use of recycled water on the Separate Interest and for notifying the tenant or new Owner of the recycled water requirements.

(iv) **Landscape Companies**. Landscape companies hired by Owners to preform landscape and irrigation maintenance must have completed Site Supervisors training offered by the Water District and be on the approved Landscape Company list provided by the Community Association.

(v) **Inspection and Testing Requirements**. Water District personnel have the right to visit an Owner's Separate Interest, after giving the Owner prior written notice, to inspect the recycled water systems and use. The Water District may also enter the Owner's Separate Interest immediately if an emergency arises related to recycled water.

(1) The Water District will inspect the installation of the Owner's recycled water irrigation system. A landscape irrigation plan must be submitted and approved before any construction of the recycled water irrigation system may begin. The irrigation system must comply with the Water District's Policies and Standards. The Water District's Policies and Standards are available from the Community Association and the Water District's website.

(2) The Water District will inspect the construction of the separate residential potable and recycled water systems and must be notified two working days in advance of the desired inspection date by the contactor or the Owner. In no case shall the irrigation lines or drinking water lines extending into the yard be covered before inspection from the Water District. If directed by the Water District, the Owner shall perform all changes or modify the recycled water irrigation system to fully comply with the Water District's Policies and Standards. If the irrigation system is installed and covered prior to an open trench inspection, the system must be exposed and corrected as directed by the Water District. Failure to comply may result in termination of service.

(3) Inspection and testing of the separate drinking water and recycled water systems will be in accordance with Water District Policies and Standards and the California Department of Drinking Water policies.

(4) Before connection of recycled water service, and annually thereafter, the Water District will inspect both the front, back and side yards exterior drinking water system and recycled water irrigation systems. The Owner shall be responsible for providing access to and cooperating with the Water District and its representatives necessary to the performance of cross connection inspections and other system inspections required. The Owner will be responsible for correcting any work that violates the Water District's Policies and Standards at their sole expense.

a. **Cross Connection and Back Flow Device Inspections**. The primary purpose of a cross-connection program is to protect the drinking water system from possible contamination by prohibiting and preventing cross-connections between the drinking water system and the recycled water system, in accordance with Title 17, Chapter 5 of the California Code of Regulations. Title 22, Section 60316(a) requires that "the recycled water system shall also be tested for possible cross connections at least once every four years."

b. **Backflow Prevention Devices**. For the protection of the drinking water system on-site a backflow prevention device is required at drinking water service connections to sites where recycled water is used. Inspection of backflow prevention devices shall be done at least once a year, or more often in those instances where successive inspections indicate repeated failures. Replacement of the backflow devices will be at the sole expense of the Owner.

(5) **Enforcement and Compliance**. Failure of an Owner to comply with any or all the Water District's Policies and Standards may subject such Owner to penalties and enforcement actions specified in the Water District's Policies and Standards.

(6) **Water Softeners**. No Owner or other resident may install, replace, enlarge or use a water softener of any type without the prior written approval of the Water District.

Any person installing or operating a water conditioning apparatus of any kind shall make such apparatus accessible to the Water District staff for inspection at reasonable times.

7.4.2 Other Maintenance Obligations. Each Owner shall perform any maintenance obligations designated in a Community Supplementary Declaration or Neighborhood Governing Documents as a maintenance responsibility of an Owner whose Separate Interest is subject to such Community Supplementary Declaration(s) or Neighborhood Governing Documents.

7.4.3 Quality of Maintenance. All maintenance required to be performed by an Owner pursuant to this Community Declaration shall be performed in such a manner as shall be deemed necessary in the judgment of the Community Association to preserve the attractive appearance thereof and to protect the value thereof in compliance with all requirements of the Owner Maintenance Manual and the Maintenance Obligations. Any such maintenance of any of the foregoing which is visible from outside of a Separate Interest shall be consistent with the existing design, aesthetics and architecture of the Community.

7.4.4 Compliance with Maintenance Obligations. By accepting a deed to a Separate Interest, 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 Manual and each Owner is further obligated to provide a copy of all documents describing Maintenance Obligations to any successor purchaser of such Owner's Separate Interest.

7.4.5 Non-Compliance with Maintenance Obligations. If an Owner ("Non-Maintaining Owner") fails to perform its Maintenance Obligations as required under this Community Declaration, the Community Association, in addition to any other rights under this Community 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 Community Association of a deficiency by a Non-Maintaining Owner in its Maintenance Obligations, the Community Association may provide to the Non-Maintaining Owner a written notice ("**Notice of Deficiency**"), which shall briefly specify the conditions which the Community Association finds to be deficient, and request that such deficiency be cured within a specified reasonable period of time. If the Community Association determines that such deficiency continues to exist at the end of the period of time specified in the Notice of Deficiency, the Community 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 Community 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 Community Association determines that such deficiency constitutes an Emergency which requires action prior to the expiration of any cure period, the Community 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 Community Association gives a Notice of Deficiency (without providing a cure period) to the Non-Maintaining Owner.

(c) **Reimbursement of Community Association.** If the Community 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 Community Association with interest at the Interest Rate within fifteen (15) days after receipt of a statement therefor. If such amounts are not reimbursed when due, the Community Association may levy a Compliance Assessment.

7.5 Duty to Protect Against Mechanics' Liens. In performing their Maintenance Obligations, and in connection with any other Improvements, the Community Association, Neighborhood 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 or permits 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, the Community Association and/or the Neighborhood Associations, 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 incurred by the Community Association, the Neighborhood Associations and/or another Owner and any costs of enforcing this indemnity prior to the defense thereof by the Contracting Party.

7.6 Liability for Damage. Notwithstanding any other provision of this Article to the contrary, each Neighborhood Association and Owner who by its, his or her negligent or willful act (or, with respect to an Owner, the negligent or willful act of the Owner's family, tenants, Lessee or their respective guests or invitees, whether minor or adult) causes damage to another Separate Interest, Community Association Property, Neighborhood Association Property or Community Association Maintenance Areas shall bear the whole cost of repairing such damage.

7.7 Liability to Declarant and Neighborhood Builders. So long as Declarant or a Neighborhood Builder has any obligation or liability under any permits issued by Governmental Entities, if an Owner, a Neighborhood Association or the Community Association is not in compliance with the provisions of this Article and as a result, Declarant or a Neighborhood Builder may incur any liability, Declarant and each Neighborhood Builder shall have the right but not the obligation to enter upon the applicable portion of the Community to correct such violation. If the Community Association, a Neighborhood Association or an Owner violates the requirements of this Article, the Community Association, Neighborhood Association or Owner shall indemnify, protect, defend and hold Declarant Parties and Neighborhood Builder Parties 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 or a Neighborhood Builder, reimburse Declarant or the Neighborhood Builder, as applicable, for any costs and expenses it incurred as a result of a violation of this Article by the Community Association, Neighborhood Association or Owner.

7.8 Inspection of the Community. The Community Association shall regularly inspect all major components of the Community Association Property and Community 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 Community Association Property and Community Association Maintenance Areas Improvements and to prevent damage to such Improvements resulting from the Community Association's neglect or the failure to properly and adequately maintain. The Community Association shall keep appropriate records to document that it has performed all inspections and maintained all Improvements in compliance with the Community Association Maintenance Manual and this Community Declaration. For a period of ten (10) years after the date of the last close of escrow of a Separate Interest in the Community, Declarant shall have the right, but not the obligation, to inspect the Community Association Property and Community Association Maintenance Areas on a periodic basis, at least once each year, to determine whether any repair to or routine maintenance of the Community Association Property or Community Association Maintenance Areas is needed. Such inspection by Declarant shall be in addition to, not in place of, the inspections required of the Community Association in this Community Declaration. Nothing herein shall create an obligation of Declarant to inspect the Community Association Property or Community Association

Maintenance Areas, to repair or maintain any portion thereof or any Improvements there within, or to cure any failure of the Community Association to perform its Maintenance Obligations.

7.9 Future Construction. Nothing in this Community Declaration shall limit the right of Declarant and Neighborhood Builders to complete construction of Improvements to the Community Association Property and to Separate Interests owned by Declarant or Neighborhood Builders 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

8.1 Scope of Review. No Improvements of any kind whatsoever shall be commenced, erected, placed or altered within the Property by a Neighborhood Association or Owner until the Neighborhood Association or Owner, as applicable, has submitted complete plans and specifications showing the nature, kind, shape, height and materials of such Improvements, including the color and any other requirements set forth in the Community Design Guidelines ("**Plans**"), and such Plans have been approved in writing as to harmony of external design and location with regard to surrounding structures and topography by the Community Design Review Committee. In addition, the grade, level or drainage characteristics of the Property or any portion thereof shall not be altered without the prior written consent of the Community Design Review Committee. The Community Association may require the Plans to be submitted by a Neighborhood Association on behalf of Owners subject to the Neighborhood Association's jurisdiction. The Owner or Neighborhood Association shall also be obligated to obtain any approvals required by the City or other Governmental Entities. The Owner or Neighborhood Association submitting Plans is referred herein as the "**Applicant**".

8.2 Delegation to a Neighborhood Association. The Community Association shall have the right, but not the obligation, to delegate its rights to review the Plans as provided in this **Article 8** (Design Review) to a Neighborhood Association, which delegation may be conditioned upon requirements imposed by the Community Association regarding the scope of review, reporting requirements to the Community Association and other requirements deemed necessary by the Community Association. If the Community Association has delegated its review powers, then the role of the Community Design Review Committee shall be limited to ensure conformity of Plans to the Community Design Guidelines, Community Standards and any other requirements of the Community Governing Documents. If the Community Association has delegated such powers as provided above, and the Community Association, in its sole discretion determines that the Neighborhood Association is not performing its obligations and is not enforcing the Community Design Guidelines and/or Community Standards as it relates to architectural review, then the Community Association may revoke such delegation of architectural and design review and resume performance of the review under this **Article 8** (Design Review). To the extent the review rights have been delegated under this Section, references to the Community Design Review Committee shall, as the context requires, refer to the Neighborhood Association or the Community Design Review Committee reviewing the Plans.

8.3 Community Design Review Committee.

8.3.1 Duties of the Community Design Review Committee. Unless the Community Association has delegated its review rights to one or more Neighborhood Associations as specified above, the Community Design Review Committee shall consider and act upon any request submitted to it under the Community Governing Documents. It shall also be the duty of the Community Design Review Committee to ensure compliance with the architectural standards for the Community, to administer and implement the Community Design Guidelines and to perform other duties delegated to it by the Community Association to ensure that any Improvements constructed within the Property conform to the Plans approved by the Community Design Review Committee and to carry out all other duties imposed upon it by the Community Governing Documents. The Community Design Review Committee, in its own name and on behalf of the Community Association, may exercise all available legal and equitable remedies to prevent or remove any unauthorized or unapproved construction of Improvements within the Property. If an

Applicant does not comply with the procedures regarding submission of Plans, the Plans shall be deemed to have not been submitted for review.

8.3.2 Relationship to Neighborhood Associations' Review. The Community Design Review Committee may require that all Plans be approved by any Neighborhood Association having jurisdiction over the applicable Separate Interest before submitting the Plans to the Community Design Review Committee for review. To the extent the requirements imposed by the Community Design Review Committee are more restrictive, such requirements supersede all conflicting requirements which may be imposed by a Neighborhood Association. The Community Design Review Committee's determination of the existence of a conflict or discrepancy between the requirements imposed by the Community Design Review Committee and those imposed by a Neighborhood Association are binding and conclusive upon the Neighborhood Association and any affected Applicant.

8.3.3 Fee for Review and Inspection. The Community Design Review Committee shall have the right to establish a fee for the review and approval of Plans and inspection of Improvements that must be submitted to the Community Design Review Committee pursuant to the provisions of this Article. The Community Design Review Committee shall have the right to retain an outside consultant, the opinion of which the Community Design Review Committee deems necessary in connection with its review of any plans submitted by any Applicant, and such Applicant shall be liable for payment of such consultant's fee.

8.3.4 Hearings. If the Community Design Review Committee, in its sole discretion, elects to conduct a hearing on an application (including with respect to issues which may arise during construction), reasonable notice of the time, place and proposed agenda for the Community Design Review Committee hearing shall be distributed prior to the date of a hearing to any Applicant whose application is scheduled to be heard. The Applicant shall be entitled to appear at the hearing and to be heard on the matter, and may be accompanied by the Applicant's architect, engineer and/or contractor. Although the Neighborhood Associations within the Property shall submit all applications on behalf of the Owners subject to its jurisdiction, for the purpose of any such hearings, the Owner requesting the alteration and/or the Owner's design professional shall be entitled to attend such meetings.

8.3.5 Qualifications. The Community Design Review Committee members need not be representatives of Declarant or any of the Owners, and may be selected from architects, building designers or other construction and design professionals licensed in the State of California. Upon death or resignation or expiration of the term of any member of the Community Design Review Committee after the Declarant's Rights Termination Date, the Community Board shall appoint a successor.

8.4 Community Design Guidelines. The Community 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 "**Community Design Guidelines**." The Community Design Guidelines shall interpret and implement the provisions hereof by setting forth the standards and procedures for the Community Design Review Committee 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 Community Design Guidelines shall not be in derogation of the standards required by this Community Declaration. The Community Design Guidelines shall be in compliance with all Applicable Laws including, without limitation, California Civil Code Sections 4720 and 4735.

8.5 Rights of Disabled. Subject to the provisions of this **Article 8** (Design Review), the Community Design Guidelines, each Owner may modify such Owner's Separate Interest and the route over the Community Association Property leading to the front door of its Separate Interest, if any, at such Owner's sole expense, to facilitate access to its Separate Interest 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.

8.6 Approval of Plans. Prior to the installation of any Improvements, or taking other action that requires the prior approval of the Community Design Review Committee, the Applicant shall submit a

complete set of Plans and any review fee required pursuant to the Community Design Guidelines and any other materials required by the Community Association in accordance with the Community Design Guidelines, including evidence satisfactory to the Community Design Review Committee that the proposed Improvements are acceptable under the terms of this Community Declaration, and the Community Design Guidelines, and comply with all Applicable Laws and, as applicable, building code requirements (such Plans and materials referred to collectively as, "**Application**").

8.6.1 Time Periods for Review. Within forty-five (45) days after an Applicant's proper submittal to the Community Design Review Committee of an Application for approval, the Community Design Review Committee shall consider and act upon such request. In the event the Community Design Review Committee fails to approve or disapprove the Application within forty-five (45) days after all documents and information requested by the Community Design Review Committee have been received by it, the Applicant requesting said approval may submit a written notice to the Community Design Review Committee advising the same of its failure to act. If the Community Design Review Committee fails to approve or disapprove any such Application within fifteen (15) days after the receipt of said notice from such Applicant, 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.

8.6.2 Compliance with California Civil Code. In approving Plans submitted to it pursuant to this Article, the Community Design Review Committee shall comply with the requirements of California Civil Code Section 4765.

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

8.6.4 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.

8.7 Performance of Construction. Upon approval by the Community Design Review Committee of any Plans, the Applicant shall, if Applicant elects to undertake the construction of the Improvements, commence construction of the Improvements within twelve (12) months from such approval by the Community Design Review Committee, and once such Improvements are undertaken, diligently pursue the same to completion. The Applicant shall, for any work for which approval has been obtained, perform its construction (a) in accordance with Plans approved under this Article, (b) with due diligence and in a good and workmanlike manner in accordance with good construction practices, (c) in accordance with practices observed in similar communities, (d) in compliance with all Applicable Laws, the Community Governing Documents, the Community Standards and any express conditions to the approval of such construction work imposed by the Community Design Review Committee, and (e) with respect to any construction within a Fuel Modification Zone, in compliance with the applicable Fuel Modification Plan. If an Owner's Separate Interest is subject to the jurisdiction of a Neighborhood Association, such Neighborhood Association shall be responsible to ensure compliance by the Owner with all requirements of this **Article 8** (Design Review) and the Community Governing Documents. If required by the Community Association or Community Design Review Committee, each Applicant shall require any contractors and subcontractors performing such construction activities within the Community to carry appropriate liability insurance, which names the Community Association and the applicable Applicant as an additional insured and shall provide a certificate of such coverage to the Community Association prior to the commencement of such construction. In so performing such construction, the Applicant shall refrain from allowing any accumulation of refuse on the balance of the Community and shall not unreasonably interfere with any

other construction being performed by other Applicants with respect to their construction. Any construction performed shall not unreasonably or materially impair ingress to the Community and shall not unreasonably disrupt operations of the Owners in the Community.

8.8 Inspection and Correction of Work. Inspection of work performed by or on behalf of Applicant and correction of defects therein shall proceed as set forth below.

8.8.1 Right of Inspection. The Community Design Review Committee, the Community Board and the Neighborhood Association (to the extent they have assumed review rights of the Community Design Review Committee) may enter into any portion of the Property, from time to time, as provided below during the construction or installation of any Improvements for the purpose of inspecting the construction or installation thereof. If such inspecting party determines that such construction and/or installation is not being done in substantial compliance with the approved Plans, it shall notify the Applicant of such noncompliance. The Community Design Review Committee, Community Board and Neighborhood Association may not enter into a Residence 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 Community Design Review Committee, Community Board or Neighborhood Association or its duly authorized representative 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 are required under this Article, the Applicant shall give written notice of completion thereof to the Community Design Review Committee.

8.8.3 Inspection. Within thirty (30) days after receiving notice of completion, the Community Design Review Committee, shall have the right to enter into the Separate Interest (but not the interior of a Residence), as provided in **Section 8.8.1** (Right of Inspection), to inspect the Improvements to determine whether they were constructed or installed in substantial compliance with the approved Plans. If the Community Design Review Committee finds that such construction or installation was not done in substantial compliance with the approved Plans, it shall notify the Applicant in writing of such non-compliance within such thirty (30) day period, specifying particulars of non-compliance, and shall require the Applicant to remedy such non-compliance.

8.8.4 Non-Compliance. If the Applicant fails to remedy such non-compliance within thirty (30) days after the date of notice of non-compliance, the Community Board, after affording the Applicant 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 Community Board shall require the Applicant to remedy or remove the same within a period of not more than thirty (30) days from the date of the Community Board ruling. If the Applicant does not comply with the Community Board ruling within such period or within any extension of such period as the Community Board in its discretion may grant, the Community Board, at its option, may either remove the non-complying Improvement or remedy the non-compliance, and the Applicant shall reimburse the Community Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Applicant to the Community Association, the Community Board shall levy a Compliance Assessment against such Applicant who is an Owner for reimbursement, or seek any remedy it may have under this Community Declaration or at law for any Applicant who is a Neighborhood Association.

8.8.5 Failure to Notify. If for any reason the Community Design Review Committee fails to notify the Applicant of any non-compliance within sixty (60) days after receipt of the notice of completion from the Applicant, the Improvements shall be deemed to be in accordance with said approved Plans.

8.8.6 Government Regulations. If in the event there is any conflict between the requirements or actions of the Community Association 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

Community Association 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 Community Declaration shall nonetheless apply. The application to and the review and approval by the Community Design Review Committee of any Plans or other submittals by an Applicant 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 Applicant; provided, however, if the Additional Requirements are less restrictive than the provisions of this Community Declaration or the other Community Governing Documents, this Community Declaration and the other Community Governing Documents shall nonetheless apply.

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

8.10 Waiver. The approval by the Community Design Review Committee of any Plans for any work done or proposed, or for any other matter requiring the approval of the Community Design Review Committee under this Community Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar Plans or matter subsequently submitted for approval.

8.11 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Community Association by any Applicant, and upon payment to the Community Association of a reasonable fee (as fixed from time to time by the Community Association), the Community Board shall deliver an estoppel certificate, executed by any member of the Community Board, stating that as of the date thereof, either: (a) all Improvements made and other work completed by said Applicant comply with this Community Declaration and the other Community Governing Documents; 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 or other Person, requesting the certificate shall be entitled to rely on said estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Community Association and Applicant.

8.12 Liability. Neither the Community Board, Community Design Review Committee, Neighborhood Association (to the extent they have assumed review rights of the Community Design Review Committee), any member of the foregoing or consultant retained by any of the foregoing shall be liable to the Community Association or to any Applicant for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any Plans, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved Plans; (c) damage to the Community or any property within the Community; or (d) the execution and filing of an estoppel certificate pursuant to **Section 8.11** (Estoppel Certificate), whether or not the facts therein are correct; provided, however, that the Community Board or the Community Design Review Committee or the Neighborhood Association (to the extent they have assumed review rights of the Community Design Review Committee) 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 Community Design Review Committee or Community Board or Neighborhood Association (to the extent they have assumed review rights of the Community Design Review Committee), or any member thereof, may, but is not required to, consult with or hear the views of any Applicant with respect to any Plans or any other proposal submitted to the Community Design Review Committee or Community Board.

8.13 Variances. The Community Design Review Committee may authorize variances from compliance with any of the architectural provisions of this Community Declaration or the Community Design Guidelines, 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) members of the Community Design Review Committee and shall become effective upon execution. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Community Declaration or the Community Design Guidelines 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 the Community Governing Documents for any purpose except as to the particular Separate Interest 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 or Additional Requirements affecting its use of the Separate Interest, including, without limitation, zoning ordinances and lot setback lines or requirements imposed by the City or any other Governmental Entities.

8.14 Appointment of Community Design Review Committee. The Community Design Review Committee shall consist of a minimum of three (3) members and a maximum of five (5) members. One (1) alternate member may be designated by the Community Board to act as a substitute on the Community Design Review Committee. Community Design Review Committee members appointed by the Community Board must be Owners, but Community Design Review Committee members appointed by Declarant need not be Owners. Directors may serve as Community Design Review Committee members. The Community Board may, upon notice, remove any member of the Community Design Review Committee, other than a member appointed to the Community Design Review Committee by Declarant. Exercise of the right of appointment and removal as set forth herein shall be evidenced by the specification in the minutes of the Community Association of each new Community Design Review Committee member or alternate member appointed and each member or alternate replaced or removed from the Community Design Review Committee. The initial members of the Community Design Review Committee shall be representatives of Declarant until one (1) year after the original issuance of the Public Report for the first Phase of the Property ("**First Anniversary**"). After the First Anniversary, Declarant may appoint and remove a majority of the members of the Community Design Review Committee until the Conversion Date. After the First Anniversary, the Board may appoint and remove those members of the Community Design Review Committee which Declarant is not authorized to appoint until such time as Declarant's right of appointment expires, and thereafter the Community Board may appoint and remove all members of the Community Design Review Committee. Community Design Review Committee members appointed by the Community Board serve for a term set by the Community Board or until their respective successors are appointed.

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

8.16 Declarant and Neighborhood Builder Exemption. The provisions of this Article shall not apply to any Improvements installed by Declarant or a Neighborhood Builder (if such Improvements of the Neighborhood Builder were approved by Declarant) or repaired by Declarant or a Neighborhood Builder pursuant to the Limited Warranty or Civil Code Section 895, *et seq.*, and neither the Community Association, Neighborhood Association nor the Community Design Review Committee shall have any rights of review or approval with respect thereto.

ARTICLE 9 DEVELOPMENT RIGHTS

9.1 Limitations of Restrictions. Declarant and Neighborhood Builders are undertaking the work of developing, constructing and marketing the Community. The completion of the development work and the marketing, sale, rental and other disposition of the Separate Interests is essential to the establishment and operation of the Property and the Annexable Property in a master planned community. In order that the work may be completed and the Community be established and operated as an integrated community in accordance with Declarant's time frames, nothing in this Community Declaration shall be interpreted to deny Declarant or Neighborhood Builders the rights set forth in this Article or any other rights set forth in this Community Declaration or the other Community Governing Documents.

9.1.1 Access. Declarant, each Neighborhood Builder, and their respective agents, contractors and subcontractors shall have the right to obtain reasonable access over and across the Community Association Property, Neighborhood Association Property or do within any Separate Interest 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, each Neighborhood Builder and their respective contractors and subcontractors shall have such rights of access over and across the Community Association Property for purposes of satisfying any obligation of Declarant or Neighborhood Builder that Declarant or Neighborhood Builder has secured by a bond in favor of Governmental Entities.

9.1.2 Construct Improvements. Declarant, and to the extent approved in writing by Declarant, Neighborhood Builders, and their respective contractors and subcontractors shall have the right to erect, construct and maintain on the Community Association Property, Community Association Maintenance Area or within any Separate Interest owned by Declarant or Neighborhood Builder, respectively, 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 owned by Declarant by sale, lease or otherwise, as determined by Declarant and Neighborhood Builders in their sole discretion and to perform or complete any work to improvements required for Declarant and Neighborhood Builders to obtain a release of any bonds posted by Declarant and Neighborhood Builders with Governmental Entities. The rights of Neighborhood Builders shall be subject to any limitations as may be imposed by Declarant. Such rights may include, without limitation, the right to close off areas to pedestrian and vehicular traffic and the right to store equipment, place construction trailers and create staging areas.

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 Community Association Property to or for the benefit of Governmental Entities 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 Entities furthermore are granted an easement across the Community Association Property for ingress and egress for use by emergency vehicles of the Governmental Entities.

9.2 Size and Appearance of Community. Declarant shall not be prevented from increasing or decreasing the number of Separate Interests that may be annexed to the Community or from changing the exterior appearance of Community 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 Community Association Property and Community Association Maintenance Areas shall be determined by Declarant, in its sole discretion. Neighborhood Builders shall have the rights set forth in this Section subject to obtaining the prior written approval of Declarant of such changes.

9.3 Marketing Rights. Declarant, and, with the prior consent of Declarant, Neighborhood Builders shall have the right to: (a) 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, Neighborhood Builder, for the sale, leasing or disposition of any Separate Interest; (b) use such portions of the Separate Interests as may be necessary or advisable to complete the sale or leasing of the Separate Interests; (c) maintain construction, leasing and/or sales offices within the Property; (d) place signs, flags, banners, balloons and other promotional advertising materials on the buildings, Residences and other portions of the Property during the marketing and leasing of Separate Interests or any grand opening; (e) provide ongoing maintenance, operation, service, construction, punch out, and repairs to any portion of the Residences and other Improvements within any portion of the Property; (f) change the appearance of portions or all of the Property, or change the development plan if Declarant or the applicable Neighborhood Builder (with the prior consent of Declarant), complies with Applicable Laws; (g) enter within or upon the Property in exercising the inspection and cure rights granted to Declarant or a Neighborhood Builder under any other

warranty rights or obligations; (h) make reasonable use of the Community Association Property and facilities for the sale of any Separate Interests; and (i) conduct their business of disposing of the Separate Interest by sale, lease or otherwise.

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

9.4 Title Rights. This Community 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 Community 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 Community 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 Entities, or to others as may be reasonably necessary to the proper development and disposal of property owned by Declarant.

9.5 Control of Access into the Community. Until development of the Community is complete and Declarant and any Neighborhood Builder has concluded sales, leasing or other marketing programs, Declarant shall have the exclusive right to control all aspects of the operation of any and all Community entry facilities, if any, (including, without limitation, locking the Community entry facilities in an open position for sales purposes, and opening any or all of the Community entry facilities to provide access for construction traffic in accordance with Applicable Laws). Consequently, access into the Community may be open to the public for an extended period of time. At such time as Declarant relinquishes its right to control the operation of all of the Community entry facilities, such facilities will be owned, operated and controlled by the Community Association. The presence of entry facilities in the Community is not a warranty or representation by Declarant or any Neighborhood Builder that any security is being provided to any Owner or to any Owner's Residence, person or property.

9.6 Approval of Signage. Until the Declarant's Rights Termination Date, Declarant shall have the right to approve all signage placed on any Community Association Property or Community Association Maintenance Areas.

9.7 Declarant and Neighborhood Builder Exemptions. None of the covenants, restrictions and limitations set forth in **Article 2** (Use Restrictions), **Article 8** (Design Review) or elsewhere in this Community Declaration shall be applied to the development, construction, marketing or sales or leasing activities of Declarant or any Neighborhood Builder or construed in such a manner as to prevent or limit development, construction, marketing, leasing or sales activities by Declarant or any Neighborhood Builder. Declarant, Neighborhood Builders and any Person to whom Declarant has assigned all or a portion of its rights as Declarant under this Community Declaration is exempt from the restrictions established under **Article 2** (Use Restrictions) and **Article 8** (Design Review). This Section shall not be amended or removed without Declarant's prior written consent until the Declarant's Rights Termination Date. Notwithstanding the forgoing, Declarant and any Neighborhood Builder shall comply with the limitations, covenants and restrictions set forth in the Master Governing Documents, including without limitation the Settlement Agreement Covenants.

9.8 Participation in the Community Association. Until the Declarant's Rights Termination Date, the Community Association shall provide Declarant with written notice of all meetings of the Community Board and Declarant and Neighborhood Builders shall be entitled, without obligation, to have a representative present at all such Community Board meetings, excluding any meetings while the Community Board is in executive session. In furtherance of Declarant's rights and Neighborhood Builders' rights and the performance of the obligations of Declarant and Neighborhood Builders, the Community

Association and Owners under the Right to Repair Law, Declarant and Neighborhood Builders shall have the right to observe and speak at open meetings of the Community Board in accordance with this Section. Commencing on the date on which Declarant no longer has a representative on the Community Board, and continuing until the date of expiration of all applicable statutes of limitations or repose for the filing of a complaint or suit or other legal remedies against Declarant and Neighborhood Builders by the Community Association under the Right to Repair Law (including any tolling periods): (a) the Community Association shall provide Declarant and Neighborhood Builders with written notice of all meetings of the Community Board that is open for any Owner to attend (each, an **"Open Meeting"**); (b) Declarant and Neighborhood Builders shall be entitled to have its representatives attend all Open Meetings and speak (during the Owner comment period) on matters governed by the Right to Repair Law, including maintenance and repair of Community Association Property, Community Association Maintenance Areas, Neighborhood Association Property, Separate Interests and Improvements thereon; and (c) Declarant and Neighborhood Builders representatives shall be entitled to receive copies of the minutes, proposed minutes and summary minutes of all Open Meetings and meetings of members, upon request for, and reimbursement of, the actual costs to copy and mail such minutes. This Section creates no right in representatives of Declarant and Neighborhood Builders to attend executive sessions of the Community Board or to participate in deliberations by the Community Board. Declarant and Neighborhood Builders representatives shall attend any Open Meeting they are permitted to attend under this Section in an observer capacity only, and they shall not have any right to vote on matters coming before the Community Board solely due to such observer capacity.

9.9 Limit on Actions. Until the Declarant's Rights Termination Date, the following actions, before being undertaken by the Community Association or any Neighborhood Builder, must first be approved in writing by Declarant: (a) any amendment to the Community Governing Documents or action requiring the approval of First Mortgagees; (b) any change in the general, overall architectural and landscaping design of the Community; (c) conveyance by the Community Association of all or any part of the Community Association Property and/or conveyance of easements on, over, through and across the Community Association Property; (d) all decisions of the Community Design Review Committee, any decisions made on appeal to the Community Board, and any decision to terminate the Community Design Review Committee; (e) any decision to terminate the Community Board; (f) modifications to level or frequency of, or change in allocation of responsibility for, maintenance of Community Association Property, Community Association Maintenance Areas or to the Maintenance Obligations; (g) any changes to the Community Rules or Community Association Maintenance Manual or Community Standards; (h) creation, elimination, or modification of a Special Benefit Area; (i) the levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Community Association Property by Declarant; (j) subject to those provisions of **Section 6.10** (Changes to Assessments) regarding limitations on yearly Assessment increases, any significant reduction of Community Association Property maintenance or other services, or entering into contracts for maintenance or other goods and services benefiting the Community Association or the Community Association Property at contract rates which are fifteen percent (15%) or more below the reasonable cost for such maintenance, goods or services as determined pursuant to the maintenance provisions contained in this Community Declaration, (k) reduction or modification of any easement rights reserved to Declarant and Neighborhood Builders under this Community Declaration; (l) alteration in the method of enforcing the provisions of this Community Declaration; (m) amendments to this Community Declaration or the other Community Governing Documents which would diminish or otherwise affect Declarant's rights of approval regarding the actions enumerated above or any other rights or approvals granted or reserved to Declarant or a Neighborhood Builder, (n) annexation of any real property other than the Annexable Property described in **Exhibit B** or a Community Supplementary Declaration; and/or (o) form an association (as defined in Section 4080 of the California Civil Code) to manage any portion of the Property or create a Special Benefit Area.

ARTICLE 10 INSURANCE

10.1 Community Association's Insurance Obligations.

10.1.1 Liability Insurance. The Community 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 Community Association, Declarant (until the Declarant's Rights Termination Date), committee members, the Community Manager and the Owners against liability arising from the ownership, operation, maintenance and use of the Community Association Property and Community Association Maintenance Areas by the Community Association and the performance by the Community Association of its duties under this Community 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 at all times meet or exceed the minimum requirements of California Civil Code Section 5805. Such insurance shall include a broad form named insured endorsement, if reasonably available as determined by the Community 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 Community Board. Such policy shall include, if reasonably available as determined by the Community Board, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

10.1.2 Property Insurance. The Community 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: (i) all Improvements upon, within or comprising the Community Association Property and Community Association Maintenance Areas, including fixtures and building service equipment; and (ii) all personal property owned or maintained by the Community Association. Such insurance shall be maintained in the amount of the maximum insurable replacement value of the property as determined annually by the Community 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 required to be insured by the Community Association are in the course of construction, the insurance required under this Section shall be carried by the Community 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 insured property (excluding foundations and footings, except for earthquake coverage) of that which is being covered.

(b) **Payment of Insurance Proceeds.** Subject to the rights of Mortgagees, the proceeds from such property insurance shall be payable to the Community Association or an insurance trustee ("Trustee") to be held and expended for the benefit of the Community Association. The Trustee shall be a commercial bank or other financial institution with trust powers in the county in which the Community is located that agrees in writing to accept such trust. If restoration is authorized, the Community Association will have the duty to contract for such work as provided for in this Community Declaration.

(c) **Primary.** With respect to all real and personal property to be insured by the Community Association under this Community Declaration, the property insurance maintained by the Community Association shall be primary and noncontributing with any other property insurance maintained by an Owner covering the same loss.

(d) **Endorsements.** The property insurance policy shall contain, to the extent available on commercially reasonable terms as may be determined by the Community 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 Community Board.

(e) **Adjustment of Losses.** The Community Association shall timely file, pursue and complete the adjustment of all claims arising under the property insurance policies carried by the Community Association. The Community Board is appointed attorney-in-fact by each Owner to

negotiate and agree on the value and extent of any property damage under any policy carried by the Community Association. The Community Board is granted full right and authority to: (i) compromise and settle any property damage claim under any policy of property insurance carried by the Community Association, or enforce any such claim by legal action or otherwise; and (ii) execute releases in favor of any insurer with respect to any such claim.

(f) **Waiver of Claims and Subrogation.** The Community Association waives all claims against the Owners for any damage to the real and personal property that the Community Association is obligated under this Community Declaration to insure (including without limitation, any loss of use of such property), except that the Community Association may claim against an Owner for property damage caused by that Owner to the extent that the damage is within the amount of the deductible or self-insured retention, or such damage is caused by the negligence or willful misconduct of that Owner. Any property insurance policy obtained by the Community Association must contain a waiver of subrogation rights by the insurer consistent with this Section; provided, however, that a failure or inability of the Community Association to obtain such a waiver from an insurer shall not defeat or impair the waivers between the Community Association and the Owners as set forth herein. If an Owner is liable for damage under this Section, the Community Association may, after Notice and Hearing, levy a Compliance Assessment equal to the cost of repairing the damage or any insurance deductible paid under the Community Association's insurance policy, as applicable, 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 Community 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 a Lessee if and to the extent that the Owner has similarly agreed in such lease agreement to a waiver of claims and subrogation against such Lessee. As to each policy of insurance the Community Association keeps which will not be voided or impaired thereby, the Community Association waives and releases all claims against the Board, the Owners, the Community Manager, Declarant, the Neighborhood Builders and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

10.1.3 Fidelity Bond. The Community 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 Community 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 Separate Interests plus any reserve funds. If the Community Association maintains a bond, the bond shall name the Community Association as obligee and if the Community Association maintains insurance, the policy shall name the Community Association as the insured and shall insure against loss by reason of the acts of the employees of the Community Association, and the Community Manager and its employees, whether or not such persons are compensated for their services.

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

10.1.5 Directors and Officers Insurance. The Community Association shall maintain a policy insuring the Community Association's officers and directors and committee members against liability for their acts or omissions while acting in their capacity as officers, directors and/or committee members of the Community Association. The limits of such insurance shall at all times meet or exceed the minimum requirements of California Civil Code Section 5800.

10.1.6 General Policy Requirements. All insurance policies the Community 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 Community 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 Community

Board. 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.

10.1.7 Copies of Policies. Copies of all insurance policies of the Community Association shall be retained by the Community Association and available for inspection by Owners 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 Community 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 Community Association shall provide to the Owners such information regarding the insurance of the Community Association as may be required by Applicable Laws or under the Community Bylaws.

10.1.8 Earthquake Insurance. ALL PARTIES ACKNOWLEDGE THAT EARTHQUAKE INSURANCE IS NOT INCLUDED IN THE COMMUNITY BUDGET AND IS NOT BEING OBTAINED BY DECLARANT FOR THE BENEFIT OF THE OWNERS OR THE COMMUNITY ASSOCIATION. NEITHER DECLARANT NOR THE COMMUNITY ASSOCIATION IS OBLIGATED TO MAINTAIN EARTHQUAKE INSURANCE ON THE COMMUNITY 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 Community Association in the Assessments. Notwithstanding the foregoing, at such time as the Community Board is no longer controlled by Declarant, the Community 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 Community Association, and if so obtained, the premiums for such insurance may be included in the Assessments. All parties acknowledge that earthquake insurance is typically very expensive and if purchased by the Community Association a material increase in Assessments may be required to cover the additional cost of such insurance.

10.1.9 Compliance with Federal Regulations. Notwithstanding any other provisions contained herein, the Community Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the minimum insurance and fidelity bond requirements established by Federal Agencies, so long as any of the above is a Mortgagee or an Owner of a Separate Interest, except to the extent such coverage is not available or has been waived in writing by the Federal Agencies as applicable. If the FNMA or FHLMC requirements conflict, the more stringent requirements shall be met.

10.2 Owners' Insurance Obligations. 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 Community Association's property insurance policy; and (ii) the amount of personal liability insurance coverage the Owner should maintain.

10.3 Compliance with Insurance Requirements in Documents of Record. The Community Association shall obtain and maintain insurance as required by any document of record affecting the Community Association Property or Community Association Maintenance Areas. Each Owner shall obtain insurance as required by any document of record affecting such Owner's Separate Interest.

10.4 Review of Insurance. The Community Board shall review the adequacy of all insurance required by this Community Declaration to be maintained by the Community Association at least once every year. The review shall include a reasonable determination of the replacement cost of all Community Association insured property without respect to depreciation.

10.5 Community Association's Authority to Revise Insurance Requirements. Subject to any statutory insurance requirements, the Community Association shall have the power and right to adjust and modify the insurance requirements 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 Community Association elects to materially reduce the coverage required to be maintained by the Community Association from the coverage required in this Article, the

Community Board shall make all reasonable efforts to notify the Owners and Mortgagees of the reduction in coverage and the reasons therefore at least thirty (30) days prior to the effective date of the reduction. The Community Association, and its directors and officers, shall have no liability to any Owner or Mortgagee, if after a good faith effort, the Community Association 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 Community Board, in its sole discretion, determines is unreasonable under the circumstances, or if the Owners fail to approve any assessment increase needed to fund the insurance premiums.

ARTICLE 11 DESTRUCTION OF IMPROVEMENTS AND CONDEMNATION

11.1 Restoration Defined. As used in this Article, the term "restore" or "restoration" shall mean repairing, rebuilding or reconstructing damaged Improvements to substantially the same condition and appearance in which it existed prior to fire or other casualty damage. The Community Association shall have the obligation to restore the Community Association Property in accordance with the provisions of this Article.

11.2 Insurance Proceeds Adequate. The costs of restoration of the damaged Improvement shall be paid first from any insurance proceeds paid to the Community Association under existing insurance policies. If the cost of restoration does not exceed the amount of insurance proceeds initially offered or paid by the insurance carrier by more than ten percent (10%) of the cost of restoration, then the Community Board shall levy a Special Assessment against the Owners in the same manner as provided in **Article 6** (Assessments) equal to the difference between the cost of restoration and the amount of available insurance proceeds.

11.3 Insurance Proceeds Inadequate. If the cost of restoration exceeds the amount of available insurance by more than ten percent (10%) of the cost of restoration, then all insurance proceeds shall be applied first. The Community Board may levy a Special Assessment against the Owners in the same manner as provided in **Article 6** (Assessments) equal to the difference between the cost of restoration and the amount of available insurance proceeds, if the consent of a majority of the Voting Power is obtained, as described below. Such damage and destruction shall constitute an Emergency under **Section 6.10.1** (Limitation on Assessments) and therefor the limitation on Assessments set forth in **Section 6.10.1** (Limitation on Assessments) shall not apply. Any deductibles required to be paid by the Community Association as the result of a casualty event shall also be deemed to be an Emergency for purposes of **Section 6.10.1** (Limitation on Assessments) and the limitations set forth in **Section 6.10.1** (Limitation on Assessments) shall not apply. The Community Board may levy a Special Assessment for the restoration only if such levy is approved by a majority of the Voting Power. The Community Board shall also determine whether to levy a Compliance Assessment against any Owner who caused the damage pursuant to **Section 10.1.2(f)** (Waiver of Claims and Subrogation), such Compliance Assessment to be levied as described above (but without the consent or approval of Members, despite any contrary provisions in this Community Declaration). Any decision regarding whether to levy a Special Assessment or Compliance Assessment shall be made as soon as reasonably practical after the Community Association determines that insurance proceeds are not adequate to complete the restoration but not later than ninety (90) days after the Community Association determines that the insurance proceeds are not adequate to complete the repair. Notwithstanding the foregoing, if the damage or destruction affects only portions of a Special Benefit Area, the vote or written consent of only Members within such Special Benefit Area shall be required. If the Members determine not to levy such Special Assessment, then the Community Board shall use the insurance proceeds available to make such restoration or repair as soon as reasonably possible or to clear the site of the damaged premises and complete such repairs as the Community Board deems appropriate and the costs thereof shall be paid for with the insurance proceeds. In the event any excess insurance proceeds remain, the Community Board, in its sole discretion, may (i) retain such sums in the general funds of the Community Association or distribute pro-rata all or a portion thereof to the Members if the damage or destruction does not affect solely Special Benefit Area Improvements, and (ii) retain sums in the Special Benefit Area accounts of the Community Association or distribute pro-rata all or a portion thereof to the Members within the Special Benefit Area if the damage or distribution affects solely Special Benefit Area

Improvements, subject to the prior rights of Mortgagees whose interest may be protected by insurance policies carried by the Community Association. The rights of the Owners and the Owner's Mortgagees, if any, as to such pro-rata distribution shall be governed by the provisions of any Mortgage encumbering such Separate Interest.

11.4 Changes in Conditions. The Community Association may rebuild damaged or destroyed common facilities in a different manner, or in a different location in proximity to the Community Association Property or Community Association Maintenance Area provided that such Community Board action shall require consent of at least a majority of the Community Board. If the Community Board cannot reach such a majority decision, any such change shall require the vote or written assent of a majority of the Voting Power. In any event, if such changed plans require additional capital so as to constitute a Capital Improvement Assessment, the written assent of the Members representing at least a majority of the Voting Power must be obtained if so required by **Article 6 (Assessments)** of this Community Declaration. Notwithstanding the foregoing, if the damage or destruction affects only portions of a Special Benefit Area, the vote or written consent on behalf of the Owners within the applicable Special Benefit Area shall be required.

11.5 Rebuilding Contract. The Community 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 Community Board determines to be in the best interests of the Members. The Community 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 Community 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, unless prevented by causes beyond the Community Board's reasonable control. Such restoration shall return the damaged Improvements to substantially the same condition and appearance in which it existed prior to the damage or destruction.

11.6 Private Streets. The Association shall restore the Private Streets. In the event the proceeds of insurance are not sufficient to cause such restoration, the Board shall levy a Special Assessment to the Owners to provide the necessary funds for such restoration, provided that if such Private Streets are part of a Special Benefit Area, only those Owners within the Special Benefit Area shall be required to pay such Special Assessment.

11.7 Insurance Trustee. All property insurance proceeds payable to the Community Association under the policy described in **Article 10 (Insurance)**, subject to the rights of Mortgagees under **Article 13 (Rights of Mortgagees)**, must be paid to a trustee as designated by the Community Board to be held and expended for the benefit of the Owners and Mortgagees, as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the county in which the Community is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Community Association will have the duty to contract for such work as provided for in this Community Declaration.

11.8 Minor Repair and Reconstruction. The Community 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).

11.9 Repairs Under Neighborhood Declarations. Each Neighborhood Declaration shall provide procedures and standards for repair or reconstruction of damaged or destroyed property subject to the jurisdiction of such Neighborhood Association. Any Neighborhood Association which owns and maintains any Private Streets shall restore such Private Streets in the event of damage or destruction.

11.10 Damage to a Separate Interest. Unless a Neighborhood Association is responsible for rebuilding in accordance with the applicable Neighborhood Declaration, and if all or any portion of any

Separate Interest is damaged or destroyed by fire or other casualty, then the Owner of such Separate Interest shall rebuild, repair or reconstruct the Residence and other Improvements in a manner which will restore them substantially to their appearance and condition immediately before the casualty or as otherwise approved by the Community Design Review Committee. The Owner of any damaged Separate Interest, and/or a Neighborhood Association, if the Neighborhood Association is responsible for rebuilding in accordance with the applicable Neighborhood Declaration, and the Community Design Review Committee shall proceed with all due diligence, and the Owner and/or the applicable Neighborhood Association shall cause reconstruction to commence within six (6) months after the damage occurs and to be completed within twelve (12) months after damage occurs, unless prevented by causes beyond such Owner's and/or Neighborhood Association's reasonable control. The transfer of a damaged Separate Interest to another Person will not extend the time allowed in this Section for commencement and completion of reconstruction by the transferee. However, no such transferee will be required to commence or complete reconstruction in less than thirty (30) days from the date the transferee acquired title to the Separate Interest.

ARTICLE 12 EMINENT DOMAIN

12.1 Condemnation. The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Community Association Property or if any action is brought to condemn all or any portion of the Community Association Property or a sale of all or a part thereof is in lieu of condemnation. The Members hereby appoint the Community Board and such persons as the Community Board may delegate to represent all of the Owners in connection with the taking. The Community Board shall act, in its sole discretion, with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Community Association, and used, held or distributed as reasonably deemed appropriate by the Community Board subject to the provisions hereof.

12.2 Total Taking. If the taking is of the entire Community Association Property, the amount payable shall be paid to the Community Board as trustee for distribution to the Owners, subject to the rights of Mortgagees holding Mortgages covering the properties and all unpaid Community Assessments of each Owner, together with any interest charges attributable thereto. Said proceeds shall be distributed to the Neighborhood Associations, as applicable (or the Owners for any Neighborhood Association without a Neighborhood Association), and each Neighborhood Association shall distribute such proceeds to the Owners and their respective Mortgagees according to the relative values of the respective properties in the Property determined by an independent appraisal made by a qualified MAI real estate appraiser selected by the Community Board. The rights of an Owner and the Mortgagee as to such pro-rata distribution shall be governed by the provisions of the Mortgage encumbering such portions of the Property.

12.3 Minor Taking. If the award is for the acquisition of only part of the Community Association Property and is less than ten percent (10%) of the value of all Community Association Property, the entire amount thereof shall be payable to the Community Board and such amount, together with any interest earned thereon, shall be held by the Community Association for the construction of capital Improvements on other portions of the Community Association Property.

12.4 Major Taking. If the award is for the acquisition of only part of the Community Association Property, but is in excess of ten percent (10%) of the value of all Community Association Property, the Community Board, in its sole discretion, may retain all or any part thereof in the general funds of the Community Association for the purpose of constructing alternative facilities for those so taken, or may distribute all or any part thereof to the Owners, as their interests appear, subject however, to any unpaid Community Assessments and the rights of Mortgagees, in the manner set forth above.

ARTICLE 13 RIGHTS OF MORTGAGEES

13.1 Conflict. Notwithstanding any contrary provision contained elsewhere in the Community 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 Separate Interest 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 Separate Interest which accrue prior to the acquisition of title to the Separate Interest 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 Separate Interest 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 Community 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 Community Association Property. Institutional Mortgagees making such payments shall be owed immediate reimbursement for such expenditures from the Community Association and, on demand, the Community Association shall execute an agreement in favor of all Institutional Mortgagees reflecting entitlement to reimbursement.

13.4 Notice to Eligible Holders. An Eligible Holder is entitled to timely written notice of the following events: (a) any condemnation loss or casualty loss that affects either a material portion of the Community or the Separate Interest on which the Eligible Holder holds a First Mortgage; (b) any delinquency in the payment of Assessments or charges owed by the Owner of a Separate Interest that is subject to a First Mortgage held by the Eligible Holder if the delinquency is not cured within sixty (60) days after its due date; (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Community Association; (d) any proposal to take any action specified in this Article or **Article 11** (Destruction of Improvements and Condemnation), provided that, for purposes of a proposal to terminate the Community and/or dissolve the Community Association, "timely written notice" shall mean at least thirty (30) days' advance written notice; (e) any default by the Owner-Mortgagor of a Separate Interest subject to a First Mortgage held by the Eligible Holder in the performance of its obligations under this Community Declaration or the Community Bylaws which is not cured within sixty (60) days; or (f) any proposed action that requires the consent of a specified percentage of the Eligible Holders. For so long as is required by FNMA's legal requirements for acceptance of condominium projects, all references to "Eligible Holder" in this **Section 13.4** (Notice to Eligible Holders) shall be deemed to include all First Mortgagees and all guarantors of First Mortgages.

13.5 Reserve Fund. The Community Association shall maintain as a reserve fund a reserve account fund sufficient to pay for maintenance, repair and periodic replacement of Community Association Property, Community Association Maintenance Areas and any other property that the Community Association is obligated to maintain and any 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 Community Association to levy any other type of Assessment or charge authorized by this Community Declaration.

13.6 Inspection of Books and Records. Upon request, any Owner, Declarant, Neighborhood Builder or First Mortgagee shall be entitled to inspect the books, records and financial statements of the Community Association, the Community Governing Documents and any amendments thereto, during normal business hours or under other reasonable circumstances.

13.7 Financial Statements. The Community 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 Community 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 First Mortgage owned) and at least sixty-seven percent (67%) of the Owners other than Declarant and Neighborhood Builders have given their prior written approval, the Community Association shall not be entitled to: (a) by act or omission, seek to abandon or terminate the Community and/or dissolve the Community Association; (b) by act or omission abandon, partition, subdivide, encumber, sell or transfer any property or improvements owned, directly or indirectly, by the Community Association for the benefit of the Separate Interests and the Owners (provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Community by the Community Association and Owners shall not be deemed a transfer within the meaning of this Section); (c) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of Separate Interests, the exterior maintenance of Separate Interests, or the upkeep of lawns, plantings or other landscaping in the Community; (d) by act or omission change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner; (e) fail to maintain fire and extended coverage insurance on insurable portions of the Community 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 (f) use insurance proceeds for losses to any property or Improvements owned by the Community Association other than for the repair, replacement or reconstruction of such property and Improvements.

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

13.10 Subordination. The lien of the assessments, including interest, costs (including attorneys' fees), and late charges subject to the limitations of California Civil Code Section 5740, provided for herein shall be subordinate to the lien of any First Mortgage with respect to any Separate Interests. Sale or transfer of any Separate Interest shall not affect the assessment lien.

13.11 Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of Institutional Mortgagees of Separate Interests pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Separate Interests or Community Association Property. Any provision to the contrary in the Community Declaration and/or Community Bylaws 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 Institutional Mortgagees naming the Mortgagees, as their interests may appear.

13.12 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 Separate Interest, 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 Separate Interest at any regular or special meeting of the Members held during such time as such default may continue.

13.13 Foreclosure. If any Separate Interest 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 Community 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 have accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Separate Interest free of the lien for Assessments, including interest, costs (including attorneys' fees), and late charges levied by the Community Association with

respect thereto or installments, that have accrued up to the time of the foreclosure sale. On taking title to the Separate Interest the foreclosure-purchaser shall only be obligated to pay Assessments or other charges levied or assessed by the Community Association after the foreclosure-purchaser acquired title to the Separate Interest. 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.

13.14 Non-Curable Breach. Any Mortgagee who acquires title to a Separate Interest 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 Community Declaration that is non-curable or that is not practical or feasible to cure.

13.15 Loan to Facilitate. Any Mortgage given to secure a loan to facilitate the resale of a Separate Interest 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.

13.16 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 Community Board to draw attention to violations of this Community Declaration that have not been corrected or made the subject of remedial proceedings or Assessments.

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

13.18 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 Separate Interest shall be granted to the Community Association without the written consent of any Mortgagee of the Separate Interest. Any right of first refusal or option to purchase a Separate Interest that may be granted to the Community Association (or other person, firm or entity) shall not apply to any conveyance or transfer of title to such Separate Interest, whether voluntary or involuntary, to a Mortgagee that acquires title to or ownership of the Separate Interest 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 Separate Interest acquired by the Mortgagee or its assignee.

13.19 Notice to Mortgagees or Guarantors of First Mortgages. If a Mortgagee or guarantor of a First Mortgage has not given written notice to the Community Association specifying its name, the name of the Owner and address of the Separate Interest encumbered by the First Mortgage, any written notice or proposal required or permitted by this Community 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 First Mortgage (or assignment thereof, if applicable).

ARTICLE 14 AMENDMENTS

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

14.2 Amendments After Conveyance of First Separate Interest. Except as may otherwise be stated in this Community Declaration and as set forth below, after the conveyance of the first Separate Interest to a First Owner and during the period of time prior to conversion of the Class B membership in the Community Association to Class A membership, this Community Declaration may be amended at any time

and from time to time provided that the vote or approval by written ballot of at least a majority of the Voting Power of each class of Members has been obtained. After conversion of the Class B membership in the Community Association to Class A membership, this Community 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, other than Declarant and Neighborhood Builders, has been obtained. The vote on a proposed amendment to this Community Declaration shall be held by secret written ballot in accordance with the procedures set forth in California Civil Code Section 5100 and the rules adopted by the Community 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 and the Secretary or Assistant Secretary of the Community 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 Community 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 from exercising the rights of the Community Association under California Civil Code Section 4275.

14.2.1 Minor Corrections and Additions by Declarant. Notwithstanding any other provisions of this Article, prior to the Declarant's Rights Termination Date, Declarant may unilaterally amend this Community Declaration or any Community Supplementary Declaration by recording a written instrument signed by Declarant in order to: (a) conform this Community Declaration or any Community Supplementary Declaration to the rules, regulations or requirements of Federal Agencies or other Governmental Entities; (b) amend, replace or substitute any exhibit to correct typographical or engineering errors, (c) include any exhibit that was inadvertently omitted at the time of recording, (d) comply with any City, County, State or Federal laws or regulations; (e) correct typographical errors; (f) supplement this Community Declaration with provisions which pertain to rights and obligations of Declarant, the Community Association or Owners arising under of the Right to Repair Law; (g) change any exhibit or portion of an exhibit to conform to as-built conditions, and (h) place of public record the final copy of the Community Maintenance Exhibit.

14.2.2 Minor Corrections by the Community Board. The Community Board may amend this Community Declaration or a Community Supplementary Declaration by recording a written instrument signed by two (2) officers of the Community Association certifying that the Community Board approved the amendment for the purposes described in **Sections 14.2.1 (a), (b), (c), (d), and/or (e)** (Minor Corrections by Declarant). However, until the end of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the California Civil Code Division 2, Part 2, Title 7 (commencing with Section 895) (including tolling periods), the Community Board must obtain the prior written approval of Declarant to any amendment approved by the Community Board, or any other amendment by the Community Board or Community Association that affects the rights of Declarant under the California Civil Code Division 2, Part 2, Title 7 (commencing with Section 895), this Community Declaration or any Community Supplementary Declaration, or for any amendment by the Community Board concerning matters discussed in **Article 9** (Development Rights).

14.3 Approval of Material Amendments. In addition to the requirements of **Section 14.2** (Amendments After Conveyance of First Separate Interest), in the case of any Material Amendment or Extraordinary Action, as defined below, the vote of Eligible Holders that represent at least fifty-one percent (51%) of the votes of Separate Interests that are subject to Mortgages held by Eligible Holders 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 and at least sixty-seven percent (67%) of the Voting Power of Members other than Declarant) shall also be required. For purposes of this Section, "**Material Amendment**" shall mean, any amendments to provisions of this Community Declaration governing any of the following subjects: (a) the fundamental purpose for which the Community was created (such as a change from residential use to a different use); (b) assessments, collection of assessments, assessment liens and subordination thereof; (c) the reserves for repair and replacement of the Community Association Property and Community Association Maintenance Areas; (d) Maintenance Obligations; (e) casualty and liability insurance or fidelity bond requirements; (f)

reconstruction in the event of damage or destruction; (g) rights to use the Community Association Property; (h) reallocation or conveyance of any interests in the Community Association Property; (i) voting; (j) any provision that, by its terms, is specifically for the benefit of Eligible Holders, or specifically confers rights on Eligible Holders; (k) 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; (l) the redefinition of Separate Interest or exclusive use Neighborhood Association Property boundaries or the conversion of a Separate Interest into Neighborhood Association Property or vice versa; (m) Reallocation of interest in the Condominium Common Area, reallocation of liability for Common Expenses, or reallocation of rights to the use of Neighborhood Association Property; and (n) imposition of any restriction on any Owner's right to sell or transfer its Separate Interest. For purposes of this Section, "**Extraordinary Action**" shall mean, (a) merging or consolidating the Community Association (other than with another non-profit entity formed for purposes similar to the Community Association); (b) abandoning, partitioning, encumbering, mortgaging, conveying, selling, or otherwise transferring or relocating the boundaries of Neighborhood Association Property (except for granting easements which are not inconsistent with or which do not interfere with the intended Neighborhood Association Property use, dedicating Neighborhood Association Property as required by a public authority; limited boundary-line adjustments made in accordance with the provisions of this Community Declaration, or transferring Neighborhood Association Property pursuant to a merger or consolidation with a non-profit entity formed for purpose similar to the Community; (c) 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; and (d) expansion or contraction of the Community and the Annexable Property, or the addition, annexation or de-annexation of real property to or from the Community and the Annexable Property other than by Declarant under **Section 15.3** (Annexation Pursuant to Approval) and **Section 15.7** (De-Annexation) of this Community Declaration, which increases the overall land area of the Community and the Annexable Property, or the number of Condominium Units, by more than ten percent (10%).

Any Eligible Holder 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 Community 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. 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 Community Association and shall make appropriate reference to this Community Declaration and its amendments and shall be acknowledged and recorded in the Official Records.

14.4 Termination Approval. Termination of this Community Declaration or the status of a "condominium project" within the Community as defined in California Civil Code Section 4125 requires approval of (a) sixty-seven percent (67%) of the First Mortgagees, (b) the Owners as provided in **Section 13.8** (Actions Requiring Eligible Holder Approval), and (c) Declarant (until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the California Civil Code Division 2, Part 2, Title 7 (commencing with Section 895) (including tolling periods)); provided however, in the event a material portion of the Community is affected by either damage or destruction (as described in **Article 11** (Destruction of Improvements and Condemnation)) or a taking (as described in **Article 12** (Eminent Domain)), then any election to terminate the status of a "condominium project" within the Community as defined in California Civil Code Section 4125 requires approval of a majority of Mortgagees and the Owner and Declarant approvals described above.

14.5 Additional Approvals.

14.5.1 Governmental Approvals. If the consent or approval of Governmental Entities or Federal Agencies is required with respect to any amendment or revocation of any provision of this Community Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained pursuant to the requirements of the Governmental Entities or Federal Agencies. All

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

14.5.2 Amendment of Certain Provisions. If any provision of this Community 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 Community Declaration, **Sections 7.2.6** (Compliance with Maintenance Obligations), **7.4.4** (Compliance with Maintenance Obligations), **17.2** (Disputes Involving Community Association Parties and Declarant Parties) and this Section of this Community Declaration shall not be amended, nor shall other provisions be adopted that purport to supersede them without the prior written approval of Declarant. In addition, no obligation to comply with the Master Governing Documents or obligation to pay any Assessment to the Master Association, including without limitation **Sections 2.24** (Master Governing Documents), **4.4.15** (Collection of Master Association Assessments) and **6.9** (Master Association Assessments), or this sentence of this Section shall be amended, nor shall other provisions be adopted that purport to supersede them without the prior written approval of the Master Board.

14.5.3 Declarant's Consent. Until Declarant's Rights Termination Date, this Community Declaration shall not be amended to amend, diminish or eliminate any rights specifically granted or reserved to Declarant or a Neighborhood Builder without the consent of Declarant.

14.5.4 Modifications to Neighborhood Governing Documents. Until the Declarant's Rights Termination Date, the form and content of each Neighborhood Declaration shall be subject to the approval in writing by Declarant. As long as Declarant, a Declarant Party or Neighborhood Builder owns any portion of the Property or the Annexable Property, any amendment, modification or supplement to a Neighborhood Declaration shall be subject to the approval in writing by Declarant as a condition to the effectiveness of such amendment, modification or supplement.

14.6 Consent of the City. This Declaration or the common amenities addressed herein shall not be terminated, amended or removed without the prior written authorization of the City of Hesperia.

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

14.8 Conflict With Other Provisions of this Community Declaration. To the extent any provisions of this Article conflict with the provisions of **Article 13** (Rights of Mortgagees) or any other provision of this Community Declaration, except those contained in this Section, the provisions of **Article 13** (Rights of Mortgagees) shall control.

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

ARTICLE 15 ANNEXATION AND DE-ANNEXATION OF PROPERTY

15.1 Annexation. Any of the Annexable Property may be annexed to and become subject to this Community 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 under this Community 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 Community Declaration unless and until a Community 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 Community Declaration and subject to the jurisdiction of the Community Association without the approval, assent or vote of the Community 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;

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 Separate Interest to be annexed for which a rental program has been in effect by Owner for a period of at least one (1) year as of the date of conveyance of the first Separate Interest to a First Owner in the annexed Phase, Owner shall pay to the Community Association, before or concurrently with the first Close of Escrow for the sale of a Separate Interest within the annexed Phase, an amount for each month or portion thereof during which the Separate Interest was occupied under such rental program that shall be established by the Community Board for reserves for replacement or deferred maintenance of Community Association Property Improvements necessitated by or arising out of the use and occupancy of the Separate Interests 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 Community 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 Annexation Pursuant to Approval. If any Person other than Declarant desires to add property other than the Annexable Property to the plan of this Community Declaration and to subject such property to the jurisdiction of the Community Association and this Community Declaration, then such property may be annexed, if the vote or written assent of at least sixty-seven percent (67%) of the total Voting Power and at least sixty-seven percent (67%) of the Voting Power of Members other than Declarant and the Owners of the property to be annexed have consented to such annexation.

15.4 Community Supplementary Declarations. The annexation authorized under the foregoing Sections shall be made by filing of record by Declarant, of a Community Supplementary Declaration which shall extend the plan of this Community Declaration to such property. A Community Supplementary Declaration may also be recorded for the purposes described in **Section 1.31** (Community Supplementary Declaration(s)).

15.5 Mergers or Consolidations. Upon a merger or consolidation of the Community Association with another association, the Community 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 Community Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established

by this Community Declaration within the Community, together with the covenants and restrictions established upon any other property as one plan.

15.6 Dissolution of the Community Association. If the Community Association as a corporate entity is dissolved, a non-profit unincorporated association shall, without further action or notice, be formed to succeed to all of the rights and duties of the Community Association. The affairs of such unincorporated association shall be governed by the Community Bylaws and this Community Declaration as if they were created for the purpose of governing the affairs of an unincorporated association.

15.7 De-Annexation. Declarant may delete all or any portion of the Property from the coverage of this Community Declaration and rescind any Community Supplementary Declaration, provided that: (a) Declarant or any Neighborhood Builder is the sole Owner of all of the real property described in the Community 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 Community Supplementary Declaration to be rescinded was recorded.

ARTICLE 16 TERM AND ENFORCEMENT

16.1 Term. The covenants, conditions and restrictions of this Community Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Community Association, Declarant, any Neighborhood Builder, Neighborhood Association, or any Member, their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Community 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 Community Declaration shall terminate at the end of the then applicable term.

16.2 Enforcement of Community Governing Documents. Subject to **Article 17** (The Right to Repair Law, Construction/Design Defects and Other Disputes), Declarant, the Community Association, any Neighborhood Builders, any Neighborhood Association and any Owner shall have a right of action against any Owner, Declarant, Neighborhood Builder or Neighborhood Association or any Owner shall have a right of action against the Community Association, to enforce by proceedings at law or in equity, all covenants, conditions, and restrictions, now or hereafter imposed by the provisions of the Community 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 Community Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the Community Rules, unless the Community 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 Community Association, Declarant, any Neighborhood Builders, any Neighborhood Association 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. Notwithstanding the foregoing, upon such time as the Community Covenant Committee is formed, if at all, all violations of the Community Governing Documents (other than nonpayment of assessments) must be presented to the Community Covenant Committee so that they may be addressed pursuant to Community Covenant Committee procedures adopted in accordance with **Article 18** (Community Covenant Committee). If the violation cannot be resolved by the Community Covenant Committee, or if prior to the formation of the Community Covenant Committee the violation is not otherwise resolved pursuant to the Community Governing Documents, the Community Board may (i) impose a Compliance Assessment, (ii) remedy the violation and then impose a Compliance Assessment, (iii) limit or restrict access to the recreation facilities on the Community Association Property, (iv) initiate legal proceedings, or (v) take any other action authorized by Applicable Laws or the Community Governing Documents. If the Community Board elects to initiate legal proceedings against a Neighborhood

Association, an Owner, or any other Person for failure to comply with the Community Governing Documents, the Community Association may seek relief which may include an action to recover damages, injunctive relief, foreclosure of any lien, or any combination of these remedies. If an Owner or Neighborhood Association alleges that another Owner, other Person, or Neighborhood Association is violating the Community Governing Documents, the complaining Owner or Neighborhood Association must first submit the matter to the Community Covenant Committee, or if such allegation arises prior to the formation of the Community Covenant Committee, the Community Board, before the complaining Owner or Neighborhood Association may resort to alternative dispute resolution or litigation for relief.

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 Community 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 Community Association or another Member regarding enforcement of the Community Governing Documents or Applicable Laws.

16.2.2 Disputes Involving the Community Association and Members. Prior to filing a civil action by either the Community Association, Neighborhood Association or by an Owner 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 Community Governing Documents; (b) damage to the Community Association Property; or (c) damage to a Separate Interest that arises out of, or is integrally related to, damage to the Community Association Property or Community Association Maintenance Area, the Community 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 Community Association shall satisfy the requirements of California Civil Code Sections 5900, 5905, 5910 and 5910.1. In the event the Community Association does not comply with the minimum requirements of a fair, reasonable and expeditious dispute resolution procedure, the Community Association or any Member may invoke the procedures provided for in California Civil Code Section 5915. The Community Board may impose any of the remedies provided for in the Community Bylaws.

16.2.3 Notice Requirements. Members 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 Community 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 Community Governing Documents shall comply with California Civil Code Sections 5850 through 5885.

16.3 Enforcement of Non-Payment of Assessments. Each Owner of any Separate Interest then subject to Assessment shall be deemed to covenant and agree to pay to the Community Association each and every Assessment provided for in this Community Declaration. The Community Association shall have the right to enforce such payment obligation in accordance with the provisions set forth in **Section 6.15** (Collection of Assessments; Liens).

16.4 Enforcement of Bonded Obligations. The Community Association shall have the right to enforce bonded obligations in accordance with the provisions set forth in **Section 6.25** (Community Association Property Improvements).

ARTICLE 17
THE RIGHT TO REPAIR LAW, CONSTRUCTION/DESIGN DEFECTS AND OTHER DISPUTES

17.1 Right to Repair Law. This **Article 17** applies to all claims under Title 7 (commencing with Section 895) of the California Civil Code involving the Property; provided, however, that claims may be expressly excluded from **Sections 17.1.2** and **17.1.3** by a Community Supplementary Declaration.

17.1.1 Defined Terms. For the purposes of this **Article 17**, "**Community Association Parties**" are defined as the Community Association, any Neighborhood Association; and, any Owner.

17.1.2 No Enhanced Protection Agreement. No representations or warranties, express or implied, by Declarant or any Neighborhood Builder, and no provisions in this Community Declaration or any Community Supplementary Declaration are intended by Declarant or any Neighborhood Builder to constitute, or shall be interpreted to constitute, an "enhanced protection agreement," as defined in California Civil Code Section 901.

17.1.3 Right to Repair Law Election. For the Property, Declarant and the Neighborhood Builders elect to use the alternative non-adversarial procedures established in **Section 17.2.1** (Notice; Right to Inspect and Correct) instead of the right to repair procedures as authorized by Section 914 of the California Civil Code.

17.1.4 Covenant Regarding Proceeds. If the Community Association or any Owner prevails in a Dispute or Right to Repair Law Claim, and the judgment thereon or settlement terms thereof includes a monetary award, then the proceeds of the award shall be first applied to cure or remedy the condition that gave rise to the Dispute or Right to Repair Law Claim.

17.1.5 Neighborhood Builder Disputes. Notwithstanding the inclusion of Neighborhood Builders and their consultants in the definition of Declarant Party for purposes of this **Article 17**, a Neighborhood Builder Dispute shall not constitute a Dispute for purposes of this **Article 17**, so long as (a) neither Declarant nor the Community Association are parties, and (b) the Neighborhood Builder has elected to institute its own alternative dispute resolution procedure for the resolution of Neighborhood Builder Disputes, and has given notice of its election in an instrument recorded against the Separate Interests developed by Neighborhood Builder in accordance with the requirements of the Right to Repair Law. All Neighborhood Builder Disputes shall be resolved pursuant to whatever procedure is elected by the Neighborhood Builder in lieu of this **Article 17**. Notwithstanding the foregoing, any dispute between Declarant and a Neighborhood Builder, relating to the sale of all or a portion of the Property and governed by dispute resolution procedures set forth in the applicable land sale agreement between Declarant and such Neighborhood Builder, shall not be considered a Dispute for purposes of this **Article 17**.

17.1.6 Relinquishment of Control. Notwithstanding any other provision in this Community Declaration to the contrary (including, without limitation, any provision which expressly or implicitly provides Declarant with control over Community Association decisions for any period of time), while Declarant has majority control of the Community Board, Declarant hereby relinquishes control over the Community Association's ability to decide whether to initiate any claim against Declarant or any Declarant Parties and/or any Neighborhood Builders or Neighborhood Builder Parties. No representative of Declarant or Declarant Parties, Neighborhood Builder or Neighborhood Builder Parties on the Community Board shall vote on the initiation of any construction defect claim including without limitation, any construction defect claim under Right to Repair Law, such that from and after the first election of directors in which Class A Members participate, Declarant and Declarant Parties, Neighborhood Builders or Neighborhood Builder Parties shall have no control over the Community Association's ability to decide whether to initiate a construction defect claim and in the event of such a vote, the affirmative vote of a majority of the non-Declarant or non-Neighborhood Builder representatives on the Community Board shall be binding so long as a quorum of the Board is present at any meeting where such vote is taken.

17.1.7 Notice Prior to Litigation. The Community Association shall notify all Owners of any litigation filed for or on behalf of the Community Association. The notice shall include a proposed

budget for the litigation and an explanation of the source of the funds for the litigation. Such notice shall provide an explanation of why the litigation is being initiated or defended, and shall include a budget for the litigation (including, without limitation, experts' fees and costs, consultants' fees and costs and the costs of the proceedings.) The notice must state that the Members have a right to review an accounting for the litigation provided in California Civil Code Section 5200, which will be available at the Community Association's office.

17.1.8 Notification to Prospective Buyers. In the event that the Community Association pursues any legal action, all Owners must notify prospective purchasers of such action and must provide such prospective purchasers with a copy of the notice produced by the Community Association and delivered to the Owners in accordance with California Civil Code Section 6000 and this Community Declaration.

17.1.9 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 Community Association shall comply with the notice and accounting requirements set forth in California Civil Code Section 5520.

17.1.10 Amendment. The provisions of this **Article 17** shall not be amended nor shall other provisions be adopted that purport to supersede it without Declarant's prior written consent. The parties shall cooperate in good faith and shall diligently perform such acts as may be necessary to carry out the purposes of this Article.

17.2 Disputes Involving Community Association Parties and Declarant Parties. Unless expressly excluded from this **Section 17.2** (Disputes Involving Community Association Parties and Declarant Parties) by a Community Supplementary Declaration, all disputes, including construction or design defect claims pursuant to the Right to Repair Law (commencing with Section 895) of the California Civil Code, relating to the Property that involve Community Association Parties and Declarant Parties (each, a "**Dispute**") shall be resolved using the following dispute resolution procedure:

17.2.1 Notice; Right to Inspect and Correct. Any Person with a Dispute shall give written notice of the Dispute by personal service or mail as authorized by Sections 415.10, 415.20, 415.21, 415.30 or 415.40 of the California Code of Civil Procedure to the Person to whom the Dispute is directed (the "**Respondent**"), describing the nature of the Dispute and any proposed remedy (the "**Dispute Notice**"). Not less than thirty (30) days after service of the Dispute Notice to the Respondent, the Respondent and its representatives have the right to (a) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, and (b) enter the Community to inspect the area, if any, that is subject to the Dispute. If the Dispute involves issues other than of construction or design, the party alleging the Dispute shall provide all documents which it contends supports that party's assertions to the Respondent at the meeting. If the Dispute involves issues of construction and/or design, then not more than thirty (30) days after the initial inspection of the area that is the subject of the Dispute, Respondent shall have the right to enter any area that is subject to the Dispute again to conduct testing (including reasonable destructive or invasive testing), and shall be responsible for remedying any damage caused by such testing. If Respondent elects to perform such testing, it shall provide written notice of Respondent's election to conduct such testing not less than seven (7) calendar days prior to such testing, and the parties shall reasonably cooperate to allow Respondent to conduct such testing not more than thirty (30) days after the initial inspection of the area that is the subject of the Dispute. If the Respondent elects to take any corrective action or repairs of the area that is the subject of the Dispute, Respondent and its representatives shall give written notice not less than ten (10) days after the later to occur of Respondent's last inspection or testing of the area that is the subject of the Dispute to the party alleging the Dispute that Respondent has elected to do so and shall describe with reasonable particularity the action or repairs it intends to effect. The parties shall cooperate so that Respondent is allowed to perform the corrective action or repairs at a reasonable time and in a reasonable manner so that Respondent is able to begin and complete the corrective action or repairs no later than forty-five (45) days after Respondent serves notice of its election to perform such corrective action or repairs to the party alleging the Dispute. The Respondent is not obligated to take any corrective action or make any repairs. The Respondent, with the consent of Declarant, has the right to

select the corrective action or repairs that the Respondent believes is appropriate. The right to inspect and take corrective action granted in this Section is in addition to the rights granted in California Civil Code Section 6000 (the "Calderon Act"). The procedures established in the Calderon Act may be implemented before, during or after the procedure in this Section is implemented.

17.2.2 Judicial Reference. Any Dispute not resolved after following the procedure in **Section 17.2.1** (Notice; Right to Inspect and Correct), shall be submitted to general judicial reference pursuant to California Code of Civil Procedure Section 638(a) and any successor statute. The parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. The parties shall not be required to participate in the judicial reference proceeding unless all reasonably necessary and appropriate parties will participate. Each party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other expenses of the judicial reference proceeding, including the referee's fees, shall be initially borne by the Neighborhood Builder involved in the proceeding, or Declarant, if no Neighborhood Builder is involved. However, at the conclusion of the proceeding, the referee shall have the power to reallocate these costs and expenses among the parties. This provision does not modify any provision of a contract requiring indemnification or establishing a different allocation of costs between the parties. The parties shall share equally in the fees and costs of the referee, unless the referee orders otherwise.

The general referee shall try all issues of fact and law, and report a statement of decision to the court. The parties shall use the procedures adopted by Judicial Arbitration and Mediation Services ("JAMS") for judicial reference (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties), provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise:

- (a) The proceedings shall be heard in San Bernardino County;
- (b) The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters;
- (c) Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, pursuant to California Code of Civil Procedure Section 640 (or any successor statute thereto) by the court with appropriate jurisdiction and subject to objections as set forth in Code of Civil Procedure Sections 641 and 642 (or any successor statutes thereto);
- (d) The referee may require one or more pre-hearing conferences;
- (e) The parties shall be entitled to conduct discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge;
- (f) A stenographic record of the trial shall be made, provided that the record shall remain confidential except as may be necessary for post hearing motions and any appeals;
- (g) The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable, which shall follow statutory and published appellate case law; and
- (h) The referee shall have the authority to rule on all post hearing motions in the same manner as a trial judge.

The statement of decision of the referee upon all of the issues considered by the referee is binding upon the parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, shall stand as the decision of the court and judgment may be entered thereon pursuant to Code of Civil Procedure Section 644 (or any successor thereto). The decision of the referee shall be appealable as if rendered by the court pursuant to Code of Civil Procedure Section 645 (or any successor

thereto). This provision shall in no way be construed to limit any valid cause of action which may be brought by any of the parties.

17.2.3 Binding Arbitration. If for any reason the judicial reference procedures in **Section 17.2.2** (Judicial Reference) are legally unavailable, unenforceable at the time a Dispute would otherwise be referred to judicial reference, or if all necessary parties cannot be joined in the judicial reference proceeding described in **Section 17.2.2** (Judicial Reference), then such Dispute shall be submitted to neutral arbitration. ARBITRATION SHALL BE MANDATORY AND BINDING, AND SHALL BE GOVERNED BY THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT IT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT), AND CONDUCTED SUBJECT TO THE FOLLOWING PROCEDURES:

(a) Any Dispute subject to this **Section 17.2.3** (Binding Arbitration) shall be submitted to neutral, binding arbitration by and pursuant to the arbitration rules and procedures of JAMS in effect at the time the request for arbitration is submitted. If JAMS is for any reason unwilling or unable to serve as the arbitration service, the parties shall select another reputable arbitration service mutually acceptable to all parties to the Dispute. If the parties are unable to agree on an alternative service, then any party may petition any court of competent jurisdiction in the County to appoint such an alternative service, which appointment shall be binding on the parties. The arbitration shall be conducted pursuant to the rules and procedures of such alternative service in effect at the time the request for arbitration is submitted. Nothing herein shall prevent the parties from agreeing to use an alternative arbitration service.

(b) Disputes subject to arbitration under this **Section 17.2.3** (Binding Arbitration) involve and concern interstate commerce and are governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1, et seq.), to the exclusion of any different or inconsistent state or local law, ordinance, regulation, or judicial rule.

(c) The arbitration provisions in this **Section 17.2.3** (Binding Arbitration) shall inure to the benefit of, and be enforceable by the parties and each of their contractors, subcontractors, agents, vendors, suppliers, design professionals, insurers and any other person whom the applicable claimant may contend is responsible for any alleged loss, liability or damages incurred by the claimant as a result of the circumstances relating to such Dispute.

(d) If any Dispute is submitted to arbitration, each party shall bear its own attorneys' fees and costs (including expert witness costs).

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

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

(g) Except as otherwise provided in this **Section 17.2.3** (Binding Arbitration), to the extent that any state or local law, ordinance, regulation, or judicial rule is inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.

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

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

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

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

(l) If any provision of this **Section 17.2.3** (Binding Arbitration) is determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

(m) This arbitration provision is self-executing. Any Dispute concerning the interpretation or the enforceability of the arbitration provisions in this **Section 17.2.3** (Binding Arbitration), including its revocability or voidability for any cause, any challenges to the enforcement or the validity hereof, or the scope of arbitrable issues hereunder, and any defense relating to the enforcement of the arbitration agreement set forth in this **Section 17.2.3** (Binding Arbitration), including waiver, estoppel, or laches, shall be decided by an arbitrator in accordance with this arbitration provision and not by a court of law.

BY ACCEPTING A REAL PROPERTY INTEREST (WHETHER IN FEE SIMPLE, BY EASEMENT OR ANY OTHER FORM OF OWNERSHIP) TO ALL OR ANY PORTION OF THE PROPERTY, THE PARTIES ARE DEEMED TO AGREE TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS **SECTION 17.2.3** (BINDING ARBITRATION) DECIDED BY NEUTRAL, BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT). ACKNOWLEDGEMENT OF THE FOREGOING IS A CONDITION TO CONVEYANCE OF A REAL PROPERTY INTEREST IN THE PROPERTY TO SUCH PARTY. BY ACCEPTING A REAL PROPERTY INTEREST (WHETHER IN FEE SIMPLE, BY EASEMENT OR ANY OTHER FORM OF OWNERSHIP) TO ALL OR ANY PORTION OF THE PROPERTY, A PARTY IS DEEMED TO HAVE AGREED TO GIVE UP ANY RIGHTS SUCH PARTY MIGHT POSSESS TO HAVE ANY DISPUTES SUBJECT HERETO LITIGATED IN A COURT OR JURY TRIAL, AS WELL AS THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS COMMUNITY DECLARATION, OR THE APPLICABLE ARBITRATION RULES OR STATUTES. IF ANY SUCH PARTY REFUSES TO SUBMIT TO ARBITRATION, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT). BY EXECUTING ANY GRANT DEED OR OTHER INSTRUMENT CONVEYING ANY REAL PROPERTY INTEREST IN THE PROPERTY, THE GRANTEE THEREIN SHALL BE DEEMED TO ACKNOWLEDGE THAT ITS AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

ARTICLE 18 COMMUNITY COVENANT COMMITTEE

18.1 Community Covenant Committee Members. The Community Covenant Committee shall only be formed upon the election of a majority of the Community Board to so form such committee. The Community Covenant Committee, if and when formed, shall be composed of not less than three (3) nor more than five (5) members with the exact number of members set by the Community Board. Community Covenant Committee members appointed by the Community Board must be Members, or where a Member is not a person, a representative of such Member, provided, however, that Community Covenant Committee members appointed by Declarant are not subject to this requirement. Directors of

the Community Board may serve as Community Covenant Committee members. The Community Board may establish additional qualifications for service on the Community Covenant Committee by Members and their representatives.

18.2 Community Covenant Committee Powers and Duties.

18.2.1 General Powers and Duties. The Community Covenant Committee, upon its formation, shall have the power to enforce the restrictions contained in the Community Governing Documents. This shall include the power to enforce any use restrictions in the Community Supplementary Declarations. This shall exclude the power to enforce any restrictions in a Community Supplementary Declaration for which an alternative means of enforcing the restriction is expressly imposed in such Community Supplementary Declaration. Prior to the formation of the Community Covenant Committee, the Community Board shall have the rights and duties of the Community Covenant Committee otherwise set forth herein.

18.2.2 Power to Sanction. The Community Covenant Committee, upon its formation, shall have the power to impose monetary fines and other penalties and sanctions against any Owner the Community Covenant Committee determines has violated the Community Governing Documents. The Community Rules shall include a list of monetary fines, penalties and sanctions the Community Covenant Committee or the Community Board may impose. Notwithstanding the foregoing, upon its formation, only the Community Board has the power to initiate self-help or litigation in the instance of a violation by an Owner of the Community Governing Documents.

18.2.3 Issuance of Enforcement Procedures. The Community Covenant Committee shall, upon its formation, establish procedures for enforcement of the Community Governing Documents that supplement the procedures established in the Community Governing Documents and the CID Act. The procedures are subject to the approval of the Community Board.

18.2.4 Retaining Consultants. The Community Covenant Committee, upon its formation, shall have the power, but not the duty, to retain Persons to advise the Community Covenant Committee in connection with decisions that the Community Covenant Committee is to make; however, the Community Covenant Committee does not have the power to delegate its decision-making power.

18.3 Appointment of Committee Members.

18.3.1 Initial Appointment. If the Community Covenant Committee is formed prior to the one (1) year anniversary of the original issuance of the Public Report for the first Phase of the Property, the initial members of the Community Covenant Committee shall be representatives of Declarant until one (1) year after the original issuance of the Public Report for the first Phase of the Property ("**First Anniversary**").

18.3.2 By Declarant. After the First Anniversary, or if the Community Covenant Committee is formed after the First Anniversary, Declarant may appoint and remove a majority of the members of the Community Covenant Committee until the Conversion Date.

18.3.3 By the Community Board. After the First Anniversary, or if the Community Covenant Committee is formed after the First Anniversary, the Community Board may appoint and remove those members of the Community Covenant Committee which Declarant is not authorized to appoint until such time as Declarant's rights of appointment shall have expired, and thereafter the Community Board may appoint and remove all members of the Community Covenant Committee. Community Covenant Committee members appointed by the Community Board shall serve for a term set by the Community Board or until their respective successors are appointed.

18.3.4 Notice of Appointment. Whenever a Community Covenant Committee member is appointed or removed while both Declarant and the Community Board have rights of appointment, written notice of such appointment or removal must be given by the appointing party to the other party.

18.3.5 Relationship to Neighborhood Associations. Decisions by the Community Covenant Committee supersede all conflicting decisions by a Neighborhood Association. Both the Community Covenant Committee and the Community Board have the authority to determine if a conflict exists.

18.4 Meetings. After its formation, the Community Covenant Committee shall meet as necessary to perform its duties. The vote or written consent of a majority of the Community Covenant Committee shall constitute an act of the Community Covenant Committee.

18.5 No Compensation. Community Covenant Committee members are not compensated for their service, but may be reimbursed for expenses incurred in performing their duties.

18.6 Appeals. Decisions by the Community Covenant Committee may be appealed to the Community Board by a Person who is sanctioned. The right to file appeals terminates at 5:00 p.m. on the day that is ten (10) business days after the date of the letter transmitting the Community Covenant Committee's decision. Persons wishing to appeal have the affirmative duty of determining when a decision has been issued. Decisions made by the Community Board are not appealable. This limit on appeals of the Community Board decisions is not a limit on the Community Board's ability to amend or modify a decision it has issued. The Community Board may adopt policies and procedures for implementing the process of appealing Community Covenant Committee decisions to the Community Board.

ARTICLE 19 GENERAL PROVISIONS

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

19.2 Severability. The provisions of this Community 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 Community Declaration shall become illegal, null, void, against public policy or otherwise unenforceable, for any reason, the remaining portions of this Community Declaration shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law. Should this Declaration be deemed invalid in part by court action, the provisions contained in this Declaration relating to establishment of the Association, maintenance obligations of the Association, architectural controls, enforcement of this Declaration and the approval rights of the City required as part of the Community Entitlements shall remain in full force and effect.

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

19.4 No Unlawful Restrictions. No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of its Separate Interest on the basis of any federal or state protected class, including without limitation, race, sex, color or creed.

19.5 Liberal Construction. The provisions of this Community 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.

19.6 Notice of Sale of Separate Interest. Concurrently with the consummation of the sale of any Separate Interest under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Community Board in writing of such sale. Such notice shall set forth the name of the transferee and its Mortgagee and transferor, the common address of the Separate Interest purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notice, any and all communications required or

permitted to be given by the Community Association, the Community Board or the Community 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 notice to the Community Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to its transferor if the Community 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 Separate Interest over the age of twelve (12) years.

19.7 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.

19.8 Exhibits. All exhibits referred to in this Community Declaration are attached to this Community Declaration and incorporated by reference.

19.9 Binding Effect. This Community 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.

19.10 Easements Reserved and Granted. Any easements referred to in this Community Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Community Declaration in the first deed by Declarant or any Neighborhood Builder to any Separate Interest.

19.11 Statutory References. All references in this Community 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 Community Declaration and any successor laws as may be amended from time to time.

19.12 Applicable Laws. In the event of any conflict between this Community Declaration and the requirements imposed under any Applicable Laws, the more restrictive provisions of the Applicable Laws or Community Declaration, as applicable shall control.

19.13 Conflicts in Documents. In the event of any conflict between this Community Declaration and the requirements of any Community Governing Documents, the more restrictive provisions shall apply, except to the extent such provision abrogates or limits any rights reserved or granted to Declarant or a Neighborhood Builder under this Community Declaration and the Community Governing Documents.

19.14 Provision of Community 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 Community Governing Documents to the prospective purchaser of a Separate Interest.

19.15 Governing Law. This Community Declaration shall be governed by and construed under the laws of the State of California.

19.16 Approval of VA and FHA. So long as there is a Class B membership in the Community Association, the following actions shall require the prior approval of VA if a VA blanket loan approval is in effect for the any portion of the Property or a VA loan encumbers any Condominium in the Property: any reorganization, merger, dissolution, or consolidation of the Community Association, and any amendment to this Community Declaration, a draft of which shall be submitted to and approved by the VA prior to recordation. FHA shall have the same approval rights given to VA in this Section if an FHA blanket loan approval is in effect for any portion of the Property or an FHA loan encumbers any Condominium in the Property.

IN WITNESS WHEREOF, this Community Declaration is made on 1/2, 2025 by Declarant.

DECLARANT/OWNER

SILVERWOOD DEVELOPMENT PHASE I, LLC, a Delaware limited liability company, formerly known as TAPESTRY DEVELOPMENT PHASE I, LLC, a Delaware limited liability company

By: [Signature]
Name: John W. Chanin Jr.
Title: General Manager

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.

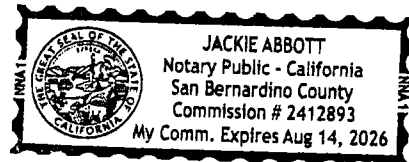
State of California)
County of San Bernardino)

On January 2, 2025, before me, Jackie Abbott, a Notary Public, personally appeared John W. Chanin Jr., 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



** See Attached*

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.

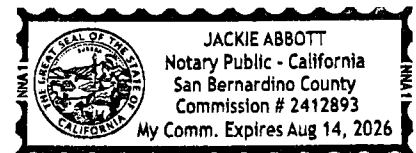
State of California)
)
County of San Bernardino) SS

On January 2, 2025, before me, Jackie Abbott, a Notary Public, personally appeared John Ohanian, Jr., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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



(This area for official notarial seal)

SUBORDINATION AGREEMENT

The undersigned ("**Beneficiary**") holds the beneficial interest in that certain Deed of Trust made by HESPERIA VENTURE I, LLC, a California limited liability company in favor of Beneficiary and recorded in the Office of the County Recorder of San Bernardino County on May 14, 2021 as Instrument No. 2021-0225001, which Deed of Trust encumbers all or a portion of the real property covered by the Community Declaration of Covenants, Conditions and Restrictions and Establishment of Easements of Silverwood ("**Community Declaration**"). Beneficiary now subordinates the Deed of Trust and its beneficial interest thereunder to (a) the foregoing Community Declaration, (b) any Community Supplementary Declaration which is recorded pursuant to the Community Declaration (c) any amendment or restatement of the Community Declaration or any Community Supplementary Declaration and (d) all easements to be conveyed to the Silverwood Community Association in accordance with any Community Supplementary Declaration.

Dated: 1/2/25

SILVERWOOD DEVELOPMENT PHASE I, LLC, a Delaware limited liability company, formerly known as TAPESTRY DEVELOPMENT PHASE I, LLC, a Delaware limited liability company

By: [Signature]
 Name: John W. O'Hanlon Jr.
 Title: General Manager

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 San Bernardino)

On January 2, 2025, before me, JACKIE ABBOTT, a Notary Public, personally appeared John W. O'Hanlon Jr., 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.

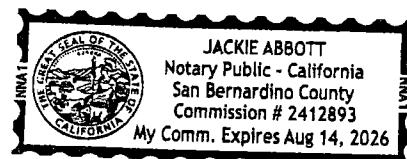
Signature [Signature]

EXHIBIT A

PROPERTY AND COMMUNITY ASSOCIATION PROPERTY

The Property includes the following Separate Interests and Community Association Property in the City of Hesperia, County of San Bernardino, State of California, described as follows:

SEPARATE INTERESTS:

None

COMMUNITY ASSOCIATION PROPERTY:

Lots 35, A and B of Tract Map No. 18989-1, in the City of Hesperia, County of San Bernardino, State of California, as per Plat recorded in Book 365, Pages 62 through 73, inclusive, of Tract Maps, in the Office of the County Recorder of said county.

EXHIBIT B**ANNEXABLE PROPERTY**

Real property in the City of Hesperia, County of San Bernardino, State of California, described as follows:

PARCEL "A" OF LOT LINE ADJUSTMENT NO. LLA 2019-00004, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER DOCUMENT RECORDED JANUARY 09, 2019, AS DOCUMENT NO. 2020-0009852 OF OFFICIAL RECORDS OF SAID COUNTY;

TOGETHER WITH THAT CERTAIN PARCEL OF LAND IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, SHOWN AS "CALIFORNIA INTERSTATE TELEPHONE COMPANY SITE, NOT PART OF THIS SUBDIVISION, O.R. 5920/637-0.998 AC" ON PARCEL MAP NO. 13471, AS PER PLAT FILED IN BOOK 172, PAGES 86 THROUGH 101 INCLUSIVE OF PARCEL MAPS, RECORDS OF SAID COUNTY;

TOGETHER WITH PARCELS "A", "B" AND "C" OF LOT LINE ADJUSTMENT NO. LLA 22-00003, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER DOCUMENT RECORDED JULY 27, 2022, AS DOCUMENT NO. 2022-0259301 OF OFFICIAL RECORDS OF SAID COUNTY.

TOGETHER WITH PARCEL 5 OF PARCEL MAP NO. 13471, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 172, PAGES 86 THROUGH 101, INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY; TOGETHER WITH LOTS 2 AND 3 OF TRACT MAP NO. 18985-1, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 355, PAGES 9 THROUGH 13, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH THE "REMAINDER PARCEL", LOTS "A" AND "B", INCLUSIVE AND LOTS 27 AND 28 AND LOTS 35 THROUGH 39, INCLUSIVE OF TRACT MAP NO. 18989-1, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 365, PAGES 62 THROUGH 73, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOTS "A" THROUGH "E", INCLUSIVE AND LOTS 1 THROUGH 57, INCLUSIVE OF TRACT MAP NO. 18955-4, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 365, PAGES 79 THROUGH 86, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOT "A" AND LOTS 1 THROUGH 69, INCLUSIVE OF TRACT MAP NO. 18955-5, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 366, PAGES 33 THROUGH 37, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOTS "A" THROUGH "D", INCLUSIVE AND LOTS 1 THROUGH 74, INCLUSIVE OF TRACT MAP NO. 18955-6, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 365, PAGES

87 THROUGH 91, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOT "A" AND LOTS 1 THROUGH 46, INCLUSIVE OF TRACT MAP NO. 18955-7, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 366, PAGES 38 THROUGH 42, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. TOGETHER WITH LOTS "A" THROUGH "F", INCLUSIVE AND LOTS 1 THROUGH 76, INCLUSIVE OF TRACT MAP NO. 18955-10, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 367, PAGES 29 THROUGH 33, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOTS "A" THROUGH "E", INCLUSIVE AND LOTS 1 THROUGH 78, INCLUSIVE OF TRACT MAP NO. 18955-11, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 367, PAGES 34 THROUGH 37, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOTS "A" THROUGH "E", INCLUSIVE AND LOTS 1 THROUGH 71, INCLUSIVE OF TRACT MAP NO. 18955-12, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 366, PAGES 70 THROUGH 73, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH LOTS "A" AND "B" AND LOTS 1 THROUGH 21, INCLUSIVE OF TRACT MAP NO. 20648-1, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 368, PAGES 59 THROUGH 61, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH THE "REMAINDER PARCEL" AND LOTS 1 THROUGH 4, INCLUSIVE OF TRACT MAP NO. 20648-2, IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 369, PAGES 74 AND 75 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT C

MAINTENANCE EXHIBIT FOR THE PROPERTY

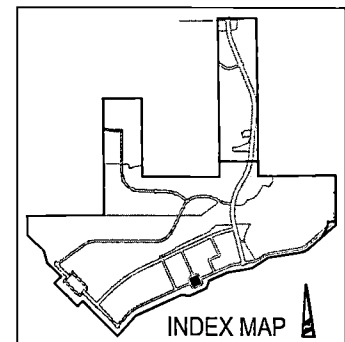
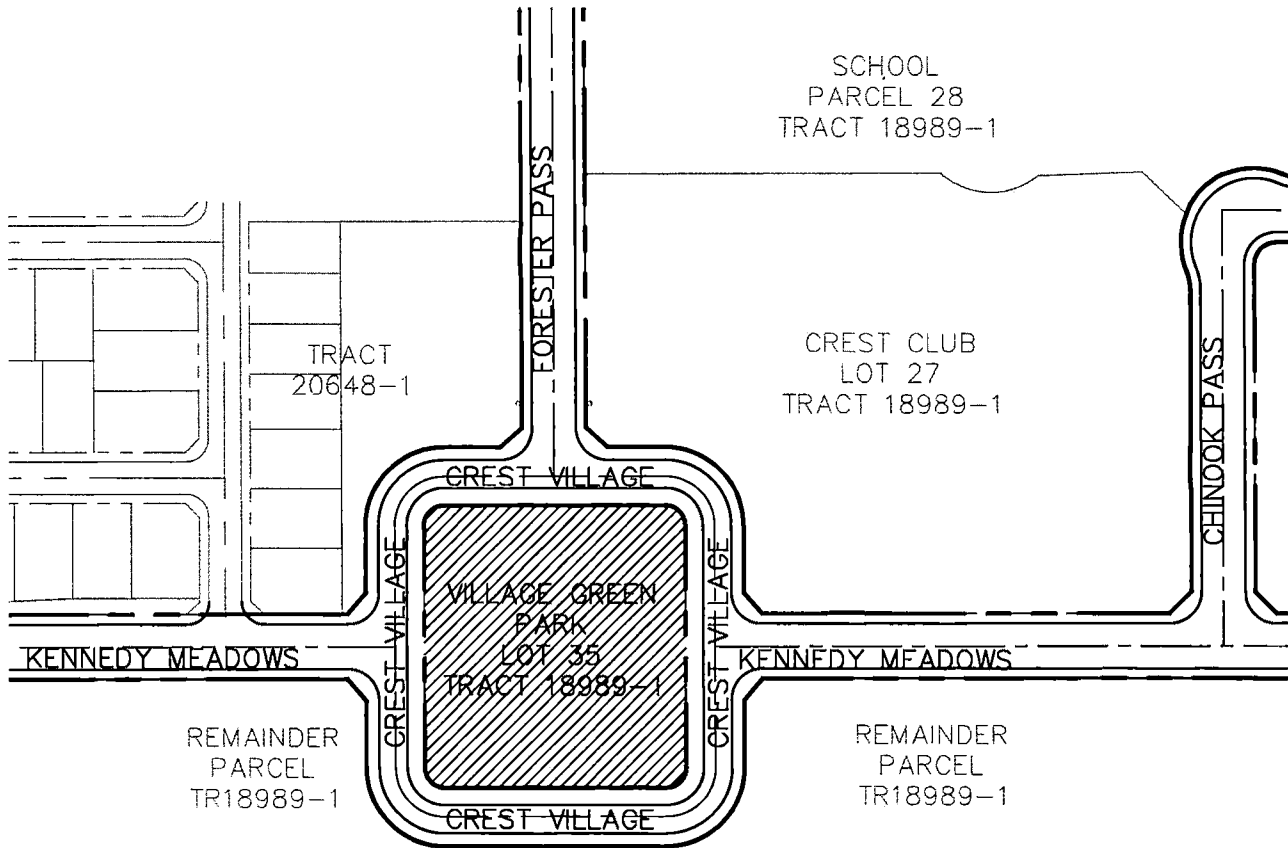
[Attached Hereto]

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

CREST CLUB

LOT 35 TRACT 18989-1

COMMUNITY MAINTENANCE EXHIBIT



LEGEND:

- | | |
|---|---|
|  | COMMUNITY ASSOCIATION MAINTENANCE AREA |
|  | COMMUNITY ASSOCIATION PROPERTY |
|  | COMMUNITY ASSOCIATION WALL |
|  | TRACT BOUNDARY |
|  | STREET PARKWAY COMMUNITY ASSOCIATION MAINTENANCE AREA |

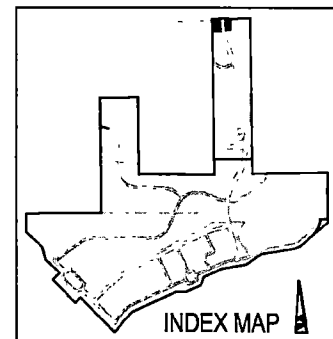
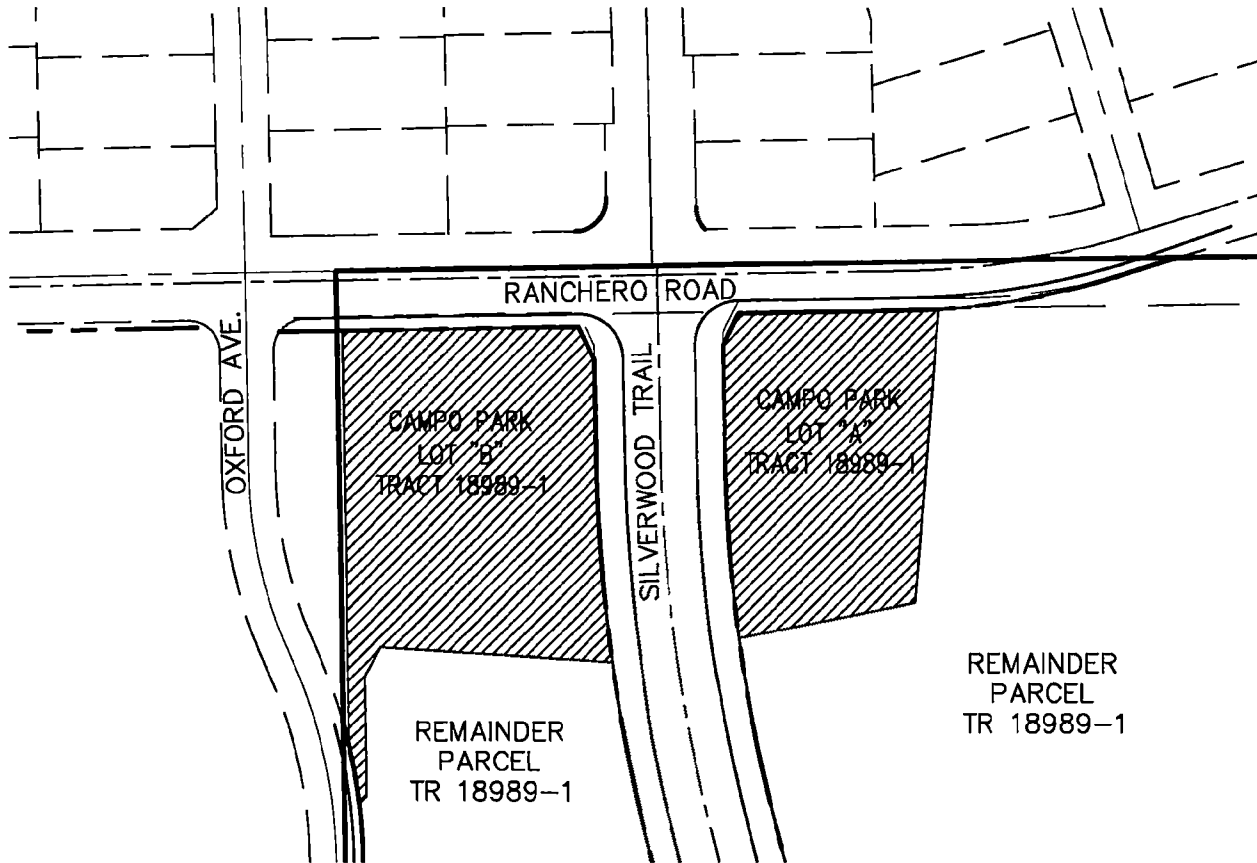


NTS

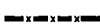


November 19, 2024

LOTS A&B TRACT 18989-1 ***COMMUNITY MAINTENANCE EXHIBIT***



LEGEND:

	COMMUNITY ASSOCIATION MAINTENANCE AREA
	COMMUNITY ASSOCIATION PROPERTY
	COMMUNITY ASSOCIATION WALL
	TRACT BOUNDARY
	STREET PARKWAY COMMUNITY ASSOCIATION MAINTENANCE AREA



NTS



November 13, 2024

TRUE COPY CERTIFICATION

(Government Code 27361.7)

I certify under penalty of perjury that this material is a true copy of the original material contained in this document.

A DELAWARE LIMITED LIABILITY COMPNAY

JOHN W. OHANIAN JR GENERAL MANAGER

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 SAN BERNARDINO

On JANUARY 2, 2025 before me JACKIE ABBOTT, A Notary Public personally appeared JOHN W. OHANIAN JR 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_____

EXECUTED IN THE CITY OF CORONA, CA

Date: 1/29/2025

By: 
Veronica Elizalde - SIMPLIFILE