

Covenants, Codes and Restrictions

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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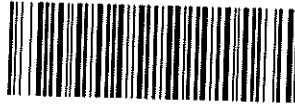
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PREFUMO CREEK ESTATES

WHEN RECORDED, MAIL TO:

Jeffrey A. Beaumont, Esq.
BEAUMONT GITLIN TASHJIAN
21650 Oxnard Street, Suite 1620
Woodland Hills, CA 91367

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FIRST AMENDMENT TO THE FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TRACT NO. 2193 FOR PREFUMO CREEK ESTATES

This First Amendment to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tract No. 2193 for PREFUMO CREEK ESTATES, A CALIFORNIA NON-PROFIT MUTUAL BENEFIT CORPORATION is made this 29 day of June, 2015, by the undersigned with reference to the following facts:

A. A First Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Tract No. 2193 for Prefumo Creek Estates was recorded as Document Number 2004076395, in the Recorder's Office, San Luis Obispo, California.

B. The undersigned have confirmed and placed in the records of the Association the signatures representing the necessary voting power of the lot owners of the property covered by said Declaration, reflecting their confirmation and approval to make the First Amendment which follows.

C. The undersigned desire to amend and by this First Amendment to Declaration of Establishment of Covenants, Conditions and Restrictions in fact, amend said Declaration as follows:

Article II, Section 2.24 of the First Amended and Restated CC&Rs be deleted in its entirety.

Article II, Section 2.50 of the First Amended and Restated CC&Rs be amended to read as follows:

Reserve Funds shall mean and refer to that portion of each annual Regular Assessment that keep, in their sole discretion, have determined is to be set aside to meet the cost of any future management, maintenance, construction, repair, replacement, and/or addition to a Major Component.

Article VII, Section 7.5A of the First Amended and Restated CC&Rs be amended to read as follows:

A. The Board may establish an Advisory Cost Center Budget Committee. ("Budget Committee")

1. The Budget Committee shall be composed of two (2) Directors.
2. The members of the Budget Committee shall not be entitled to any compensation for services performed pursuant to the provisions of the Governing Documents that have application to the Budget Committee.

Article VII, Section 7.6 of the CC&Rs be amended to read as follows:

A. Each Regular Assessment shall include a portion for the Reserve Funds.

B. The Reserve Funds shall be deposited in a separate account and the signatures of at least two (2) Directors of the following persons shall be required for the withdrawal of such Reserve Funds.

C. Except as provided for in the provisions of Subsections 7.6D. and E., below, Reserve Funds may not be expended for any purpose other than the management, improvement, repair, restoration, replacement, maintenance of, or litigation involving the management, improvement, repair, restoration, replacement or maintenance of, the Major Components for which they are reserved.

D. Notwithstanding the provisions of Subsection 7.6C., above, the Membership Directors may authorize the temporary transfer of money from the Reserve Account that is not part of a Driveway Cost Center's Reserve Funds, to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to the Reserve Account.

E. Notwithstanding the provisions of Subsection 7.6C., above, a Director may authorize the temporary transfer of money from the Reserve Account of the Driveway Cost Center which he or she, as the case may be, represents, to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, that has been recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to such Driveway Cost Center Reserve Account.

Article VII, Section 7.7C of the CC&Rs be amended to read as follows:

Notwithstanding any other provision in the Governing Documents, except for the conditions and restrictions in the provisions of Subsection 7.7 D., below, Directors may not levy any Special Assessment that pertains to the Common Expenses, which have been established for the management, construction, maintenance, reparation,

improvement, and/or replacement of Driveway Cost Center Budget items, under the provision of Subsection 7.7A, above, either by itself or in the aggregate with other Special Assessments levied for the same Fiscal Year, which would be in excess of five percent (5%) of such Common Expenses for such Fiscal Year, without the approval of a majority of those Members who are Driveway Cost Center Owners of Lots that are located in the Driveway Cost Center that will be affected by such increase and are entitled to vote at a Membership Meeting. For the purposes of the provisions of this Subsection 7.7C., a quorum consists of fifty percent (50%) of the Members who are Driveway Cost Center Owners of Lots that are located in the Driveway Cost Center that will be affected by such increase, who are entitled to vote and are present, either in person or by proxy.

IN WITNESS WHEREOF, this First Amendment to Declaration of Covenants, Conditions, Restrictions have been adopted as provided above effective this 29 day of JUNE, 2015.

**PREFUMO CREEK ESTATES
HOMEOWNERS ASSOCIATION**

By:



, President

THOMAS REISS
(Print Name)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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 Luis Obispo)
On June 29 2015 before me, Carolyn Kelley
Date Here Insert Name and Title of the Officer
personally appeared THOMAS REISS
Name(s) of Signer(s)

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 Carolyn M. Kelley
Signature of Notary Public

Place Notary Seal Above

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Capacity(ies) Claimed by Signer(s)

Signer's Name: THOMAS REISS
 Corporate Officer -- Title(s): PRESIDENT
 Partner -- Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer's Name: _____
 Corporate Officer -- Title(s): _____
 Partner -- Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
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Attorney-at-Law
777 Campus Commons Road, Suite 200
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**FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
TRACT NO. 2193
FOR
PREFUMO CREEK ESTATES**

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**FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
TRACT NO. 2193
FOR
PREFUMO CREEK ESTATES**

RECITALS

A. The Tract No. 2193 Declaration of Covenants, Conditions, and Restrictions of Tract No. 2348 of Prefumo Creek Homes ("Original Declaration"), which was executed by **RICHARD LOUGHEAD, INC.**, a California corporation ("Original Declarant"), was Recorded on January 22, 2001, as Document No. 2001-003722 of the Official Records of San Luis Obispo County, California.

B. The Original Declaration, which affects certain real property that is located in the County of San Luis Obispo, is hereby amended and restated in its entirety to read as set forth below.

C. This First Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Tract No. 2193 for Prefumo Creek Estates is made on this 34th day of August, 2004, by **PLAYA DEL SOL DEVELOPMENT, LLC**, a Delaware limited liability company, registered in California as **PLAYA DEL SOL-SLO, LLC**, a California limited liability company, **LARWIN COMPANY**, a California corporation, and **PREFUMO CREEK HOMEOWNERS ASSOCIATION**, a California non-profit mutual benefit corporation.

D. Unless otherwise expressly provided for in the Declaration or dictated by grammatical correctness, any capitalized words and/or phrases, when used herein, shall have the specified meanings given to them in **ARTICLE II** of the Declaration, entitled, "**DEFINITIONS**."

E. The Original Declarant intended, in order to promote certain common objectives designed to preserve the value of as well as benefit the Property, to create a Planned Development and impose certain reciprocal burdens and benefits on the Property.

F. Said reciprocal burdens and benefits were designed to establish a common plan ("Common Plan") for the subdivision, improvement, and development of each and every portion of the Property, together with any additional real property that may have been annexed to the Original Declaration, and the Original Declarant desired to secure the harmonious and uniform development of the Property in accordance with the Common Plan.

E. On November 7, 2000, the Original Declarant conveyed its interest in the fee titles of lots 36 through 38, inclusive, to **THE PREFUMO CREEK HOMEOWNERS ASSOCIATION**, a California non-profit mutual benefit corporation.

F. On September 5, 2002, the Original Declarant conveyed its interest in the fee titles of lots 1 through 38, inclusive, to **PLAYA DEL SOL DEVELOPMENT, LLC** a Delaware limited liability company, registered in California as **PLAYA DEL SOL-SLO, LLC**, a California limited liability company.

F. On September 15, 2003, **PLAYA DEL SOL DEVELOPMENT, LLC** a Delaware limited liability company, registered in California as **PLAYA DEL SOL-SLO, LLC**, a California limited liability company, conveyed its interest in the fee titles of lots 9 through 17, inclusive, to **LARWIN COMPANY**, a California corporation.

G. On March 16, 2004, **PLAYA DEL SOL DEVELOPMENT, LLC** a Delaware limited liability company, registered in California as **PLAYA DEL SOL-SLO, LLC**, a California limited liability company, conveyed its interest in the fee titles of lots 5 through 8, inclusive, and lots 18 through 22, inclusive to **LARWIN COMPANY**, a California corporation.

1. It was the intent of Playa Del Sol Development, LLC, registered in California as Playa Del Sol-SLO, LLC to assign to the Larwin Company co-rights as a Declarant pursuant to the provisions of Section 3.13 of the Declaration, entitled, **“FUTURE CONSTRUCTION AND ASSIGNMENT OF DECLARANT’S RIGHTS.”**

H. Changing circumstances and design of the Planned Development dictate that the Original Declaration be amended and restated.

ARTICLE I DECLARATION

A. It is, therefore, the objective of the Declarant's to replace certain portions of the text of the Original Declaration in its entirety, while at the same time rephrasing other portions of said text.

B. The Declarant's intend to perfect such objectives by the Recordation of the Declaration.

C. As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property, or any portion thereof, and shall inure to the benefit of each Owner.

D. It is still the intent of the Declarants to follow the general dictates of the provisions of Paragraphs E. and F. of the **“RECITALS”** section of the Declaration.

E. The Declarants declare that the Property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used, sold, improved and occupied subject to the declarations, limitations, restrictions, easements, covenants, conditions, servitudes, liens and charges that are contained in the Declaration as well as any amendments and/or supplements thereto, all of which are declared and agreed to be imposed as equitable servitudes in furtherance of a planned development as described in California Civil Code sections 1350 through 1372, inclusive, or any compatible superseding statutes, for the subdivision, improvement, protection, maintenance and sale of Lots within the Property and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property.

F. All of such limitations, restrictions, easements, reservations, covenants, conditions, servitudes, liens and charges shall continue to run with the land, shall be binding on and inure to the benefit of all of the parties having or acquiring any right, title or interests in the Property, are for the benefit of the Property and shall be binding on and inure to the benefit of the successors in interests of such parties.

G. The Declarants further declare that it is the express intent that the provisions of the Declaration satisfy the requirements set forth in the provisions of California Civil Code section 1353.

1. In the event California Civil Code section 1353 is amended or superseded by another, similar provision of the California statutes, the Declaration shall be deemed amended, without the necessity of further Owners' approval, to correspond to the amended or successor Civil Code provision.

ARTICLE II DEFINITIONS

2.1 ARCHITECTURAL COMMITTEE

"Architectural Committee" shall mean and refer to the committee of persons appointed and acting pursuant to the provisions of Section 13.2 of the Declaration, entitled, "APPOINTMENT AND MAKEUP OF ARCHITECTURAL COMMITTEE."

2.2 ARCHITECTURAL RULES

"Architectural Rules" shall mean and refer to the rules and regulations that have been adopted by the Architectural Committee with the approval of the Board, which interpret and implement the provisions of the Governing Documents by setting forth the guidelines, standards and procedures for the review and approval of proposed Improvements by the Architectural Committee.

2.3 ARTICLES

"Articles" shall mean and refer to the Association's Articles of Incorporation and any amendments thereto.

2.4 AS-BUILT PLANS

"As-Built Plans" shall mean and refer to any drawings showing, describing and designating the precise locations of any of the Major Components, Improvements and/or easements that are located within the Development.

2.5 ASSESSMENT(S)

"Assessment(s)" shall mean and refer to any Regular or Special Assessment which is made or levied by the Association against an Owner and its, his, her or their Lot in accordance with the provisions of ARTICLE VII of the Declaration, entitled, "ASSESSMENTS."

2.6 ASSOCIATION

"Association" shall mean and refer to the **PREFUMO CREEK ESTATES HOMEOWNERS ASSOCIATION**, a California nonprofit mutual benefit corporation, and its successors and assigns.

2.7 ASSOCIATION RULES

"Association Rules" shall mean and refer to the rules, regulations and policies regulating the use and enjoyment of the Development, which may from time to time be adopted by the Board.

2.8 BASE BUDGET

"Base Budget" shall mean and refer to a written, itemized estimate of the income to be received by the Association from all of the Members for performing those certain functions that benefit all of the Members and the Common Expenses of the Association that are incurred in performing such functions, all as provided for in the provisions of the Governing Documents.

2.9 BOARD OF DIRECTORS

"Board of Directors" or "Board" shall mean and refer to the Board of Directors.

2.10 BYLAWS

"Bylaws" shall mean and refer to the Association's bylaws and any amendments thereto.

2.11 CERTIFICATE OF COMPLIANCE

"Certificate of Compliance" shall mean and refer to that certain certificate that is issued by the Board or the Architectural Committee, as the case may be, in accordance with the provisions of Section 13.6 of the Declaration, entitled, "CERTIFICATE OF COMPLIANCE."

2.12 CITY

"City" shall mean and refer to San Luis Obispo, California, the City in which the Development is located and its various departments, divisions, employees and representatives.

2.13 COMMON AREA

"Common Area" shall mean and refer to all of the real property owned by the Association, together with any interest in real property which the Association has, for the common use and enjoyment of the Members and shall include, upon conveyance to the Association, those certain plots of land and easements which are shown, designated and described on the Subdivision Map as "LOT 36," "LOT 37," "LOT 38," "CENTERLINE OF 6.0 m WIDE PRIVATE EMERGENCY ACCESS & MAINTENANCE EASEMENT," "ZONE A FUEL MODIFICATION ESMT WITHIN LOTS VARIES 27.454 m," "ZONE A FUEL MODIFICATION & DRAINAGE EASEMENT 6.0 m MIN WITHIN LOTS 65.241 m," "ZONE B FUEL & DRAINAGE EASEMENT 15.240 m OUTSIDE PROPERTY LINE," "ZONE C FUEL MODIFICATION EASEMENT 15.240 m OUTSIDE ZONE B," "REINA COURT - COMMON DRIVEWAY EASEMENT," "ESTRELLA - COMMON DRIVEWAY EASEMENT," "FORTUNA COURT - COMMON DRIVEWAY EASEMENT," "PEDESTRIAN & DRAINAGE EASEMENT" and "5.0 m WIDE PEDESTRIAN DRAINAGE EASEMENT," together with any other plot of land and/or easement that may be conveyed to the Association and designated as "Common Area." Unless the context clearly indicates a contrary intent, any reference in the Governing Documents to the "Common Area" shall include any Major Components located thereon.

2.14 COMMON DRIVEWAY(S)

"Common Driveway(s)" shall mean and refer to those certain roadways that are shown, designated and described on the Subdivision Map as "REINA COURT," "ESTRELLA COURT," "ESTRELLA WAY," and "FORTUNA COURT."

2.15 COMMON EXPENSE(S)

"Common Expense(s)" shall mean and refer to any costs that are or will be incurred by the Association in the performance of those duties that are mandated by the provisions of the Governing Documents and shall include, but are not limited to, the following:

- A. All of the expenses and/or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, the Major Components or any portion of any Lot that the Association is obligated to maintain or repair.
- B. All of the expenses and/or charges reasonably incurred to procure the insurance that is required and/or authorized by the provisions of the Governing Documents.
- C. Any amounts that are reasonably necessary to set aside for Reserve Funds as well as to cover any shortfall that may be created by the nonpayment of Assessments.

2.16 CONTRACT BUYER(S)

"Contract Buyer(s)" shall mean and refer to a buyer that purchases a Lot under contractual provisions which provide for the payment of the purchase price to be made in installments and for the conveyance of title to such Lot to be made on the completion of such payments.

2.17 COUNTY

“County” shall mean and refer to the County of San Luis Obispo, California, the County in which the Development is located and its various departments, divisions, employees and representatives.

2.18 DECLARANTS

“Declarants” shall collectively mean and refer to the Playa Del Sol Development, LLC, a Delaware limited liability company, registered in California as Playa Del Sol-SLO, LLC, a California limited liability company, and the Larwin Company, a California corporation as well as their successors and assigns, if such successors and assigns are assigned to the rights of the Declarants pursuant to the provisions of Section 3.13 of the Declaration, entitled, “**FUTURE CONSTRUCTION AND ASSIGNMENT OF DECLARANT’S RIGHTS,**” or if such successor or assign is a Mortgagee acquiring Declarants’ interest in the Development by foreclosure or deed in lieu of foreclosure.

2.19 DECLARATION

“Declaration” shall mean and refer to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tract No. 2193 for Prefumo Creek Estates, as it may from time to time be amended, modified or supplemented.

2.20 DEVELOPMENT

“Development” shall mean and refer to any real property that is subject to the Governing Documents and any Improvements that are located on such real property.

2.21 DIRECTORS

“Directors” shall mean and refer to the Members of the Board of Directors.

2.22 DRIVEWAY COST CENTER(S)

“Driveway Cost Center(s)” shall jointly and severally mean and refer to those certain portions of the Common Area, which are showing, designated, and described on the Subdivision Map as “**REINA COURT,**” “**ESTRELLA COURT,**” “**FORTUNA COURT,**” and “**ESTRELLA WAY,**” all of which the Association is obligated to manage, insure, improve, repair, restore, replace and/or maintain and which are for the restricted use of “**LOT 13**” through “**LOT 26,**” inclusive, and “**LOT 32**” through “**LOT 34,**” inclusive, all of which being shown, designated, and described on the Subdivision Map.

2.23 DRIVEWAY COST CENTER BUDGET(S)

“Driveway Cost Center Budget(s)” shall mean and refer to a written, itemized estimate of the income to be received by the Association from the Driveway Cost Center Owners for performing those certain functions that benefit such Driveway Cost Center Owners and the Common Expenses of the Association that are incurred as well as the Reserve Funds necessitated in performing such functions, all as provided for in the provisions of the Governing Documents.

2.24 DRIVEWAY COST CENTER DIRECTOR(S)

“Driveway Cost Center Director(s)” shall mean and refer to a Director or Directors, as the case may be, that represent the Driveway Cost Center Owners

2.25 DRIVEWAY COST CENTER LOT(S)

“Driveway Cost Center Lot(s)” shall mean and refer to “**LOT 13**” through “**LOT 26,**” inclusive, and “**LOT 32**” through “**LOT 35,**” inclusive. Unless the context clearly indicates a contrary intent, any reference in the Declaration to a Driveway Cost Center Lot(s) shall include any Improvement that is located thereon.

- 2.26 DRIVEWAY COST CENTER OWNER(S)**
 “Driveway Cost Center Owner(s)” shall mean and refer to an Owner or Owners, as the case may be, who have a fee, simple interest in a Driveway Cost Center Lot against which a Regular and/or Special Assessment has been levied, a portion of which is for the Common Expenses and Reserve Funds that are exclusively attributable to such Driveway Cost Center
- 2.27 DUE PROCESS REQUIREMENT(S)**
 “Due Process Requirements” shall mean and refer to all of the requirements of the provisions of Section 3.14 of the Declaration, entitled, “**REQUIREMENTS TO COMPLY WITH DUE PROCESS.**”
- 2.28 ELIGIBLE MORTGAGE HOLDER(S)**
 “Eligible Mortgage Holder(s)” shall mean and refer to any mortgage holder, including, but not limited to, any Institutional First Mortgagee who has requested a notice from the Association pursuant to the terms and conditions set forth in the provisions of Section 12.15 of the Declaration, entitled, “**NOTICES TO ELIGIBLE MORTGAGE HOLDERS.**”
- 2.29 FAIR MARKET VALUE**
 “Fair Market Value” shall mean and refer to the determination by an independent appraiser that has been selected by the Board, who shall be a member of the Society of Real Estate Appraisers or any other nationally recognized appraiser organization and who shall apply its or such other appropriate organization's standards, in determining the fair market value of a portion of real property.
 A. The costs of any such appraisal shall be paid from the sale, insurance proceeds, or condemnation proceeds, as the case may be, which requires such appraisal.
- 2.30 FINAL SUBDIVISION PUBLIC REPORT**
 “Final Subdivision Public Report” shall mean and refer to a final subdivision public report for the Development, issued by the Commissioner of the California Department of Real Estate pursuant to the California Subdivided Lands Act.
- 2.31 FISCAL YEAR**
 “Fiscal Year” shall mean and refer to the twelve (12) month accounting period of the Association.
- 2.32 GOVERNING DOCUMENT(S)**
 “Governing Document(s)” is a collective term that shall mean and refer to the Declaration, the Articles and the Bylaws, as well as any Architectural and/or Association Rules.
- 2.33 IMPROVEMENT(S)**
 “Improvement(s)” includes, but is/are not limited to, the construction, installation, alteration or remodeling of any buildings, walls, roofs, foundation, decks, fences, swimming pools, landscaping, landscape structures, skylights, solar heating equipment, spas, antennas, utility lines as well as any structure of any kind. In no event shall the term “Improvement” be interpreted to include projects that are restricted to the interior of any Residence.
- 2.34 INVITEE(S)**
 “Invitee(s)” shall mean and refer to any person(s) within the Development at the express or implied invitation of an Owner for business purposes, mutual advantage or purely social purposes.
- 2.35 LOT(S)**
 “Lot(s)” shall mean and refer to those certain portions of the Property that are designated, shown and described on the Subdivision Map as “**LOT 1**” through “**LOT 35,**” inclusive. When appropriate within the context of the provisions of the Governing Documents, the term “Lot(s)” shall also include any Residence together with any other Improvements constructed or to be constructed thereon.

2.36 MAJOR COMPONENT(S)

“Major Component(s)” shall mean and refer to any constituent element(s) of the Development that the Association is obligated to maintain, such as, but not limited to, the Private street, Common Driveways, emergency access and maintenance easement that is located on the “REMAINDER” lot and “LOT 36,” drainage areas over “ZONE B” and “C” on the “REMAINDER” lot and “LOT 30” through “LOT 35,” inclusive, fuel modification areas over “LOT 15” through “LOT 35,” inclusive, and the “REMAINDER” lot, open space areas over “LOT 36” and “LOT 38,” walkway over “LOT 15,” street lighting on “LOT 37,” storm drainage system on “LOT 37,” monument sign on the “LOT 37” irrigations system within the landscape areas, slopes, swales, cuts, fills and berms within “ZONE B” and “C,” bridge and creek modification area on “LOT 36,” “LOT 37” and “LOT 38,” trees, hedges, plantings, lawns, shrubs and landscaping wherever located with the Development.

2.37 MEMBER(S)

“Member(s)” shall mean and refer to the holders of a Membership.

2.38 MEMBERSHIP

“Membership” shall mean and refer to the state or status of being a Member of the Prefumo Creek Estates Homeowners Association in accordance with the provisions of Section 6.1 of the Declaration, which is entitled “MEMBERSHIP IN THE ASSOCIATION.”

2.39 MEMBERSHIP DIRECTOR(S)

“Membership Director(s)” shall mean and refer to a Director or Directors, as the case may be, who represent all of the Members, both Driveway Cost Center Owners and non-Driveway Cost Center Owners.

2.40 MORTGAGE(S); MORTGAGEE(S); INSTITUTIONAL MORTGAGEE(S); FIRST MORTGAGE(S) AND FIRST MORTGAGEE(S)

- A. “Mortgage(s)” shall mean and refer to a mortgage or deed of trust encumbering a Lot, the Common Area or any portion thereof.
- B. “Mortgagee(s)” shall mean and refer to the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage.
- C. “Institutional Mortgagee(s)” shall mean and refer to a Mortgagee that is a bank, savings and loan association, mortgage company or other entity which is chartered or licensed under any Federal or State laws and whose principal business is lending money on the security of real property, investing in such loans, or any insurance company, as well as any Federal or State agency or instrumentality, including, without limitation, the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation.
- D. “First Mortgage(s)” or “First Mortgagee(s)” shall mean and refer to one having priority as to all of the other Mortgages or holders of Mortgages encumbering the same Lot, the Common Area or any other portions thereof.

2.41 NOTICE OF COMPLETION

“Notice of Completion” shall mean and refer to a written notice, which has been signed and verified by the fee titleholder of real property that a certain work of improvement on such real property has been completed. Any such Notice of Completion shall be in compliance with the provisions of California Civil Code section 3093 or any compatible superseding statutes.

- 2.42 OWNER(S)**
 “Owner(s)” shall mean and refer to each person or entity holding a Record fee ownership interest in a Lot, including, but not limited to, the Declarants and any Contract Buyer, as well as, except where the context otherwise requires, the family, guests, tenants and Invitees of an Owner. “Ownership” shall not include persons or entities that hold an interest in a Lot merely as security for the performance of an obligation.
- 2.43 PARTY FENCES**
 “Party Fences” shall mean and refer to any fences that are constructed on the property line of any two (2) adjoining Lots, a portion of which is located on each of the two (2) adjoining Lots.
- 2.44 PRIVATE**
 “Private” is used as descriptive of certain portions of the Common Area, such as, but not limited to, the Private street, Common Driveways, parking areas, storm drainage system and street lighting which are traditionally recognized as being public in nature.
- 2.45 PROPERTY**
 “Property” shall mean and refer to all of the real property that is shown, designated and described on the Subdivision Map as “LOT 1” through “LOT 38,” inclusive, “CENTERLINE OF 6.0 m WIDE PRIVATE EMERGENCY ACCESS & MAINTENANCE EASEMENT,” “ZONE B FUEL MODIFICATION & DRAINAGE EASEMENT 15.240 m OUTSIDE PROPERTY LINE” and “ZONE C FUEL MODIFICATION EASEMENT 15.230 m OUTSIDE ZONE B,” as well as any additional real property that may later be annexed to the Development and become subject to the provisions of the Governing Documents.
- 2.46 RECORD; RECORDING; RECORDED; RECORDATION**
 “Record,” “Recording,” “Recorded” and “Recordation” shall mean and refer to the entering of any document in the Official Records of the County.
- 2.47 REGULAR ASSESSMENT(S)**
 “Regular Assessment(s)” shall mean and refer to any Assessment that is levied by the Board in accordance with the provisions of Section 7.5 of the Declaration, entitled “ESTABLISHMENT OF REGULAR ASSESSMENTS.”
- 2.48 RESERVE ACCOUNT**
 “Reserve Account” shall mean and refer to the bank account into which any Reserve Funds are deposited together with any funds received and not yet expended or disposed of from either a compensatory damage award or a settlement to the Association, or from any person for injuries to property, real or personal, arising from any construction or design defects. The latter funds shall be separately itemized from the Reserve Funds.
- 2.49 RESERVE ACCOUNT REQUIREMENTS**
 “Reserve Account Requirements” shall mean and refer to the estimated Reserve Funds that the Board has determined are required to be available at a specified time.
- 2.50 RESERVE FUNDS**
 “Reserve Funds” shall mean and refer to that portion of each annual Regular Assessment that Membership Directors or Driveway Cost Center Directors, whichever is appropriate, in their sole discretion, have determined is to be set aside to meet the cost of any future management, maintenance, construction, repair, replacement, and/or addition to a Major Component.
- 2.51 RESIDENCE(S)**
 “Residence(s)” shall mean and refer to a private, single-family dwelling, including, but not limited to, any garages associated therewith, constructed or to be constructed on a Lot.

- 2.52 RESTRICTED USE COMMON DRIVEWAY COMMON AREA(S)**
“Restricted Use Common Driveway Common Area(s)” shall mean and refer to those portions of the Common Area that are set aside and reserved for the exclusive use of the Owners of Common Driveway Lots pursuant to Section 3.2 of the Declaration, entitled, “**RESTRICTED USE COMMON DRIVEWAY COMMON AREA.**” Unless the context clearly indicates a contrary intent, any reference in the Declaration to the Restricted Use Common Driveway Common Area(s) shall include any Major Components that are located thereon.
- 2.53 SPECIAL ASSESSMENT(S)**
“Special Assessment(s)” shall mean and refer to any Assessment that is levied by the Board in accordance with the provisions of Section 7.7 of the Declaration, entitled “**SPECIAL ASSESSMENTS - PURPOSE OF AND PROCEDURE FOR LEVYING.**”
- 2.54 SUBDIVISION MAP**
“Subdivision Map” shall collectively mean and refer to that certain Recorded final Subdivision Map for the Development, which is entitled, “**TRACT 2193,**” and was Recorded on January 22, 2001 in Book 19 of Tract Maps at Page 52 of the Official Records of San Luis Obispo County, California and that certain map, which is entitled “**AMENDING MAP TRACT 2193,**” that was Recorded on May 26, 2004 as Instrument No. 2004-045381 in Book 23 of Tract Maps at Page 64.
- 2.55 VIOLATION OF A PROVISION OF THE GOVERNING DOCUMENTS**
“Violation of a Provision of the Governing Documents” shall mean and refer to any single transgression or breach of any provision of the Governing Documents that occurs on any particular day.

**ARTICLE III
PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS**

3.1 PERSONS SUBJECT TO THE GOVERNING DOCUMENTS

A. All present and future Owners, tenants and occupants of Lots shall be subject to and shall comply with each and every term and provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one (1) or more of such classes of person, i.e., Owners, tenants, Invitees, etc. The acceptance of a deed to any Lot, the entering into a lease, sublease or contract of sale with respect to any Lot, or the occupancy of any Residence shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of the Governing Documents, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with each and every one of the provisions of the Governing Documents.

3.2 RESTRICTED USE COMMON DRIVEWAY COMMON AREA

A. Each Owner of a Common Driveway Lot shall have the right to use and enjoy that portion of the Restricted Use Common Driveway Common Area that is appurtenant to its, his, her or their Common Driveway Lot.

3.3 NONEXCLUSIVE EASEMENTS

A. Every Owner has a nonexclusive easement of use, enjoyment, ingress, egress and support in, on, over and throughout the Common Area as well as any Improvements or Major Components that may be located on such area, as is applicable.

B. Each such nonexclusive easement shall be appurtenant to the Owner's respective Lot and shall pass with the title to such Lot. All such nonexclusive easements shall be subject to the following rights and restrictions:

1. The right of the Association to limit the number of guests as well as to adopt and enforce the Association and/or Architectural Rules.
2. The right of the Association, in accordance with the provisions of the Governing Documents, to borrow money for the purpose of improving, repairing or maintaining the Common Area and Major Components and in aid thereof, to Mortgage said property; provided, however, that the rights of any such Mortgagee in said property shall be subordinate to the rights of the Owners hereunder; and further provided that any such indebtedness shall be considered an expense of the Association for purposes of a Special Assessment.
3. The right of the Association to assign, rent, license or otherwise designate and control the use of any assigned parking and storage spaces within, and any other Major Components situated upon, the Common Area and charge reasonable fees for their use.
4. The right of the Association to suspend the prerogative of a Member to use any Major Component and/or the Common Area as provided for in the provisions of Section 5.6 of the Declaration, entitled, "**RIGHT TO IMPOSE SANCTIONS FOR A VIOLATION OF A PROVISION OF THE GOVERNING DOCUMENTS.**"
5. The right of the Board to adopt and enforce Association Rules concerning the control and use of the Private street, Common Driveways, emergency access and maintenance easements, drainage areas, fuel modification areas, open spaces, walkways, landscaping and parking areas that are located upon or across the Common Area, including, but not limited to, the right to regulate the kind of vehicles and their speed together with any parking of vehicles within such Private street, Common Driveways, emergency access and maintenance easements, as well as the parking areas. The Board is authorized to delegate to a municipality or other governmental entity as well as to contract any private security company to exercise its authorized rights in connection with such Private street, Common Driveways, emergency access and maintenance easements, as well as the parking areas.
6. The Private street, Common Driveways, emergency access and maintenance easements, drainage areas, fuel modification areas, open spaces, walkways landscaping and parking areas within the Development shall also be subject to any emergency vehicle access easements and/or any public or Private utility easements that are shown, designated and described on the Subdivision Map.

3.4 BLANKET UTILITY EASEMENT.

A. There is hereby created a blanket easement through, upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining of all of the sidewalks, drainage areas, fuel modification areas, Common Driveways, street lighting, storm drainage system and any Private and/or public utilities, as the case may be, including, but not limited to, water, sewer, gas, telephones, drainage, electricity and any master television antenna or cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain the necessary equipment and underground facilities on and within the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines or other utilities may be installed

or relocated within the Development except as initially designed and approved by the Declarants or thereafter approved by the Board of Directors.

3.5 RIGHTS OF ENTRY OR USE

A. Each Lot and/or the Common Area, as the case may be, shall be subject to the following rights of entry and use:

1. The right of the Declarants or their designee(s) to enter upon any portion of the Development to construct Improvements to the Property, to make repairs and remedy construction defects. Such entry shall not interfere with the use or occupancy of any occupied Lot unless authorized by its Owner, which authorization shall not be unreasonably withheld.
2. The right of the Board or its agents to enter any Lot to cure any Violation of a Provision of the Governing Documents, provided that, the Association has complied with the Due Process Requirements, except in the case of an emergency, and further provided, that within the time limit constraints of the Due Process Requirements such Owner has not acted to cure such Violation of a Provision of the Governing Documents. The Board shall be entitled to levy a Special Assessment for its costs of affecting such cure against the Owner. The rights of entry and cure shall be immediate in the case of an emergency originating upon or threatening any Lot, whether or not the Owner of the Lot being entered is present.
3. The right of the Board, its officers, agents, employees and any contractor selected by the Board to enter in or cross over the Common Area as well as any of the Lots to perform its obligations and duties under the provisions of the Governing Documents, which include, but are not limited to, its obligations or duties with respect to the construction, maintenance and repair of the Common Area, the Restricted Use Common Driveway Common Areas, including, the watering, planting, cutting, removing and otherwise caring for any landscaping, together with the cleaning, repairing, replacing and otherwise maintaining, or causing to be maintained, any underground utility lines serving the Lots. The rights shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not the Owner of the Lot being entered is present.
4. The right of an Owner or Owner's representatives to enter the Lot of any other Owner for purposes of performing installations, alterations or repairs to mechanical or electrical services, including installation of television antenna and related cables, which are reasonably necessary to the use and enjoyment of its, his, her or their Lot, provided that a request for any such entry is made in advance and that entry is at a time convenient of the Owner whose Lot is being entered upon. In the case of an emergency the right of entry shall be immediate, whether or not the Owner of the Lot being entered is present.
5. The right of the Association and the Owners, or their representatives, to enter upon adjoining Lots for access to slopes and drainage ways located thereon, when such access is essential for the maintenance or stabilization of such slopes and/or drainage ways, provided request for any such entry is made in advance and that such an entry is at a time convenient to the Owner whose Lot is being entered upon. In case of an emergency the right of entry shall be immediate, whether or not the Owner of the Lot being entered is present.

3.6 MINOR ENCROACHMENTS.

A. Each Lot shall have and is hereby granted an appurtenant easement, not to exceed five (5) feet from any point on the property line of any such Lot, over all adjoining Lots, including the Common Area, for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or the shifting of structures together with any other reasonable cause, as long as such encroachment remains. However, in no event shall such a valid easement for encroachment exist in favor of a Lot if the encroachment occurred due to the willful misconduct of the Owner of such a Lot. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners, and each of them, hereby agree that under such circumstances any minor encroachments over adjoining Lots and/or the Common Area, as the case may be, that do not exceed five (5) feet from any point on the property line of any such Lot shall be permitted and that there shall also be valid easements for the maintenance of the encroachments as long as such encroachments shall exist. Such appurtenant easements shall be for the purpose of, but not limited to, overhanging roofs and eaves, fireplace structures as well as extended windows.

3.7 POWER TO GRANT EASEMENTS.

A. The Declarants or the Board shall have the power as well as the right to grant and convey in the name of the Association, as to any real property to which the Association holds title, to any Owner or other party, easements and rights-of-way in, on, over or under the Common Area for the purpose of access, ingress and egress to real property, constructing, erecting, operating or maintaining lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes as well as any similar public or quasi-public improvements or facilities. Each Owner, in accepting a deed to a Lot, expressly consents to such easements and rights-of-way and authorizes and appoints the Board and the Declarants, as long as the Declarants own one (1) or more Lots, as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easement of rights-of-way. However, no such easement can be granted if it would permanently interfere with the use, occupancy or enjoyment by any Owner of its, his, her or their Lot unless it was approved by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of the Class A and the Class B Members as well as their Eligible Mortgage Holders.

3.8 PARTY FENCE EASEMENTS.

A. Each Lot that shares a Party Fence with an adjoining Lot and its Owner is declared to have an easement appurtenant and the same is granted by Declarants on, over and upon such adjoining Lot for that portion of the Party Fence that is located thereon, including the right to enter upon such adjoining Lot to service and maintain said easement as well as repair or replace the Improvements constituting the Party Fence. The entry shall be at reasonable times, after prior notice, except that in the case of an emergency the right of entry shall be immediate. Excluding any maintenance obligation or duty of the Association, each Lot and its Owner shall be responsible for the maintenance, repair and reconstruction of that portion of the Party Fence that is located upon its, his, her or their Lot. No Owner shall alter the shape, size or construction of such Party Fence or use any materials different from those utilized in the initial construction without the written consent of the Architectural Committee.

3.9 OTHER EASEMENTS.

A. Each Lot and its Owner as well as the Association, as the case may be, is declared to be subject to all of the easements, dedications and rights-of-way that have been granted or reserved in, on, over and under the Property.

3.10 EMERGENCY ACCESS AND RIGHT-OF-WAY.

A. The Property, each Owner and the Association, as the case may be, is/are declared to be subject to any emergency vehicle access easements and public right-of-way easements.

3.11 PUBLIC SERVICE EASEMENT.

A. There shall be and the Declarants hereby reserve and covenant for themselves, as well as all of the future Owners, easements for public services, including, but not limited to, the right of the police and fire departments to enter upon any part of the Development for the purpose of carrying out their official duties.

3.12 DELEGATION OF USE.

A. Any Owner may delegate its, his, her or their rights of use of the Development to members of its, his, her or their family, guests, tenants, employees and Invitees and to such other persons as may be permitted by the provisions of the Governing Documents. If an Owner has sold its, his, her or their Lot to a Contract Buyer or has leased or rented it, the Owner shall not be entitled to delegate any right to use and enjoyment in the Development that are a burden to such a Lot while such Owner's Lot is occupied by any such Contract Buyer or tenant. Instead, the Contract Buyer or tenant, as the case may be, while occupying such Lot, shall be entitled to use and enjoy such rights and can delegate such rights of use and enjoyment in the same manner as if such Contract Buyer or tenant were an Owner. Each Owner shall notify the Secretary of the Association of the names of any Contract Buyer or tenants of such Owner's Lot. Each Owner, Contract Buyer or tenant shall also notify the Secretary of the Association of the names of all persons to whom such Owner, Contract Buyer or tenant has delegated any right of use and enjoyment and the relationship that each such person bears to the Owner, Contract Buyer or tenant, whichever is applicable. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of the Owners. No such delegation shall relieve an Owner from liability to the Association or to the other Owners for payment of Assessments or performance of the covenants, conditions and restrictions that are contained in the provisions of the Governing Documents. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or Contract Buyer shall contain a provision that requires compliance by such tenant or Contract Buyer with all of the covenants, conditions and restrictions contained in the provisions of the Governing Documents. Such provision shall categorically state that it is for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or Contract Buyer of an Owner, as well as against the Owner, for a Violation of a Provision of the Governing Documents to the same extent that such right of action would exist against such Owner.

3.13 FUTURE CONSTRUCTION AND ASSIGNMENT OF DECLARANT'S RIGHTS.

A. Nothing in the provisions of the Governing Documents shall limit the right of the Declarants to complete the construction of Improvements that are located in the Common Area as well as to any Lots that are owned by the Declarants, to alter such Improvements and/or Lots or to construct any additional Improvements that the Declarants might deem advisable, before completion and sale of the entire Development. Any rights given to the Declarants by the provisions of the Governing Documents may be assigned by the Declarants to any successor of all or any part of the Declarants'

interest in the Development, by an express assignment that has been incorporated into a Recorded deed that transfers any such interest or portion thereof, as the case may be, to a successor or to a Mortgagee who acquires all of the Declarants' interest in the Development by foreclosure or by deed in lieu of foreclosure.

B. The provisions of this Section 3.13 may not be amended without the written consent of the Declarants until all of the Lots in the Development owned by the Declarants have been conveyed to Owners other than the Declarants.

3.14 REQUIREMENTS TO COMPLY WITH DUE PROCESS.

A. Before the Board imposes any monetary penalties, suspensions of Membership rights or Common Area use privileges against any Member for a Violation of a Provision of the Governing Documents or before the Board and/or the Declarants exercise any entry rights that may be provided for in the provisions of the Governing Documents, the Board and/or the Declarants, as the case may be, must act in good faith and satisfy the following requirements:

1. Such Member shall be given a ten (10) day prior written notice, which for the purposes of this Section 3.14 shall be hereinafter referred to as the "Action Notice," by either first-class mail or personal delivery. The Action Notice must:
 - a. State that the Board or the Declarants, as the case may be, is/are contemplating entry into its, his, her or their Lot or that the Board is meeting to consider disciplining such Member, whichever is applicable.
 - b. Contain the nature of the alleged Violation of a Provision of the Governing Documents or the necessity for any such entry, whichever is applicable.
 - c. State the date, time and place of the meeting or any such entry.
 - d. Advise the Member of its, his, her or their right to attend any such meeting and to address the Board or to discuss any such contemplated entry with the Board or the Declarants, whichever is appropriate.
2. If the Action Notice is given by mail, it must be sent to the current address of the Member that is shown in the Association's records.
3. If, after complying with all of the above procedures, the Board decides to impose such discipline or the Board and/or the Declarants, as the case may be, determine to make such entry, then, within fifteen (15) days of any such decision or determination, the Board and/or the Declarants, whichever is applicable, shall notify the Member, in writing, by either first-class mail or personal delivery, of the disciplinary action to be taken or the entry to be made, as the case may be.
4. No disciplinary action shall be taken or entry made until the Board or the Declarants, as the case may be, has fulfilled all of the requirements that are called for in the provisions of this Section 3.14.

ARTICLE IV COVENANTS AND USE RESTRICTIONS

4.1 ANIMALS.

A. The Board shall have the right to establish and enforce sensible rules and regulations imposing standards for the reasonable control and keeping of animals in, upon and around the

Development to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Development by the Owners and residents. Such rules shall include, but not be limited to, a prohibition against maintaining, breeding or raising animals for commercial purposes and in unreasonable numbers.

B. Each person bringing or keeping an animal within the Development shall be liable to other Owners, their family members, guests, Invitees, tenants and Contract Buyer's for any damage to person or property caused by any such animal.

C. All construction of structures intended to house and/or contain animals shall be created in accordance with the minimum standards required by the current building codes of the City for outbuildings and improvements of such a nature as well as in a manner that will provide for the control of the animals. All such structures shall be maintained in a clean, sanitary, workable and attractive condition.

D. Animal owners shall be responsible for the prompt disposal of animal waste deposited by animals under their control on any portion of the Property.

4.2 ANTENNA AND EXTERNAL FIXTURES.

A. Except as provided for in the provisions of Subsections 4.2B. and 4.2C., below, no television antenna, radio pole, antenna, satellite dish, clothesline, basketball standard or other external fixture other than those originally installed by the Declarants or approved by the Architectural Committee and any replacement thereto, shall be constructed, erected or maintained on or within a Lot or any structure located thereon. No wiring, insulation, air conditioning, solar panel or other machinery or equipment other than that originally installed by the Declarants or approved by the Architectural Committee and their replacements, shall be constructed, erected or maintained on or within a Lot or any structure thereon. Each Owner shall have the right to maintain a television and radio antenna within the completely enclosed portions of its, his, her or their Residence.

B. One (1) exterior dish antenna apparatus for individual residential use, which is not more than one (1) meter in diameter, shall be allowed within any Lot, providing it complies with all of the following requirements:

1. Location in any street or Common Driveway setback is prohibited.
2. Location in any yard adjacent to a street or Common Driveway is prohibited unless the antenna is not visible from the street and/or Common Driveway.
3. The maximum height to the highest point of the antenna is not more than five (5) feet from ground level.
4. Any such antenna, which is higher than an adjacent property line fence and such fences are not bordering a street or Common Driveway, must be located away from such fences at a distance equal to or greater than the height which the antenna is above such fence.

C. Roof-mounted solar panels shall be allowed for Residences, provided that they are designed with minimal visual impact. Architectural design and elevation plans for a project proposing roof-mounted solar panels shall be reviewed and approved by the Architectural Committee for architectural compatibility with existing and other planned developments in the vicinity.

4.3 ARCHAEOLOGICAL REQUIREMENTS.

A. If subsurface cultural resources are discovered on a construction site during the construction process, all work within one thousand (1,000) feet of such discovery shall stop until a qualified archaeologist evaluates said resources and makes a recommendation as to the disposition, mitigation and/or salvage of said findings.

4.4 BUILDING HEIGHT.

A. No structure shall be erected, altered, placed, or permitted to remain on Lots 1 through 30, inclusive, that exceeds thirty (30) feet in height measured from the natural grade surface.

4.5 CHANGING GRADES, SLOPES AND DRAINAGE.

A. No change in the established grade or elevation of a Lot or an easement and no change in the established slope or ratio of the cuts and fills which alters established drainage patterns shall be permitted without the prior written consent of the City. For the purposes hereof, established drainage patterns are defined as the drainage patterns existing at the time the grading of said Lot was completed in conformity with the grading and drainage plan heretofore approved by the City.

4.6 COMPLIANCE WITH LAW.

A. Nothing shall be done or kept on any Lot or in the Common Area that might increase the rate of, or cause the cancellation of, any insurance for the Development, or any portion of the Development, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in its, his, her or their Lot that violates any covenant, restrictions, law, ordinance, statute, rule or regulation of the provisions of the Governing Documents and/or any local, county, state or federal body. No Owner shall allow its, his, her or their furniture, furnishings or other personal items to remain within any portion of the Common Area except as may otherwise be permitted by the Board or the Association Rules.

4.7 EXTERIOR LIGHTING AND FIXTURES.

A. Fluorescent, mercury vapor, sodium, amber vapor lights as well as standard outdoor lights of the type used for security, must be enclosed in a manner that directs the light in a specific area without causing a visual impairment to passing motorists or a nuisance to the Common Area or other Lots.

1. The issue of whether or not a nuisance exists shall be determined by the Board in its sole discretion.

4.8 FENCES AND WALLS.

A. Except as may otherwise be provided for in the provisions of the Governing Documents for the installation of fences and/or walls that have been installed in accordance with the original construction of the Development, no fences, ornamental screens or walls of any nature or kind, including, but not limited to, retaining walls, shall be altered, removed, erected or maintained on or around any portion of any Lot except those authorized and approved by the Architectural Committee.

4.9 GAS OR LIQUID STORAGE.

A. With the exception of propane tanks that are being used for home-style barbecues, no tank for the storage of gas or liquid shall be installed on or within the Development unless such installation is done by the Declarants or has been approved by the Board or the Architectural Committee, whichever is applicable.

4.10 INDEMNIFICATION.

A. Each Owner shall be liable to the remaining Owners for any damage to the Common Area or to Association-owned property that may be sustained by reason of the negligence of such Owner, such Owner's family members, Contract Buyers, tenants, guests or Invitees, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association. Each Owner by acceptance of its, his, her or their deed to a Lot, agrees personally and for its, his, her or

their family members, Contract Buyers, tenants, guests and Invitees, to indemnify each and every other Owner and to hold them harmless from and defend them against any claim of any person for personal injury or property damage occurring within the Lot of the indemnifying Owner, except to the extent that such injury or damage is covered by liability insurance in favor of the Association or other Owner or the injury or damage occurred by reason of the willful and negligent acts or omission of the Association or other Owner or a person who is temporarily visiting such other Owner's Lot.

4.11 LEASING.

A. The subdivision is designed and intended as an Owner-occupied, residential development. Therefore, an Owner shall be responsible for any Violation of a Provision of the Governing Documents by a tenant or any other occupant of its, his, her or their Lot. No Owner shall rent, lease or otherwise delegate the use and occupation of its, his, her or their Lot except upon all of the following terms and conditions:

1. No Lot may be leased or rented for a period of less than thirty (30) days;
2. The lease or rental must apply to the entire Lot including its appurtenant rights excluding only the Owner's voting rights;
3. Any lease or other rental must be by a written agreement which shall provide that the tenancy is subject to the provisions of the Governing Documents and any Violation of a Provision of the Governing Documents shall constitute a default under such agreement; and
4. The lease must specifically give the Association, after compliance with the Due Process Requirements, the right to evict the tenant if the tenant commits a Violation of a Provision of the Governing Documents.
5. Each Owner who leases its, his, her or their Lot shall promptly notify the Secretary in writing of the name of all of the tenants, as well as the members of the tenants' family, who will be occupying the Lot and shall provide the Secretary with a complete copy of the current lease or rental agreement, whichever is applicable.
6. Any leasing Owner shall also promptly notify the Secretary of the address and telephone number where it, he, she or they can be reached.

4.12 LEGAL REMEDIES FOR OWNER NONCOMPLIANCE WITH THE PROVISIONS OF THE GOVERNING DOCUMENTS.

A. Subject to the requirement of the provisions of Section 5.16 of the Declaration, entitled, "**LIMITATIONS ON THE AUTHORITY OF THE BOARD OR THE ASSOCIATION,**" Subsections 5.16B. through 5.16N., inclusive, any Owner being in Violation of a Provision of the Governing Documents shall give rise to a cause of action in the Association and any aggrieved Owner, as the case may be, for the recovery of damages or for injunctive relief, or both.

B. Nevertheless, the objective of the provisions of the Governing Documents is to promote and seek voluntary compliance by the Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action, the Owner or tenant responsible for such Violation of a Provision of the Governing Documents shall receive a written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent provisions of the Governing Document. Said notice shall describe the noncomplying condition, request that the Owner or tenant correct the condition within a reasonable time, which time shall be specified in the notice, and advise the Owner or tenant of its, his, her or their appeal rights.

4.13 MACHINERY AND EQUIPMENT.

A. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment that is usual or customary in connection with the use, maintenance or repair of a Residence or appurtenant structures within the Development or that have been approved by the Architectural Committee.

4.14 MAINTENANCE – OWNER RESPONSIBILITY.

A. Except as provided for in the provisions of Sections 3.8 and 5.9 of the Declaration, entitled, “**PARTY FENCE EASEMENTS**” and “**MANAGEMENT AND MAINTENANCE OF THE DEVELOPMENT**,” respectively, each Owner shall be responsible for maintaining the structures located upon its, his, her or their Lot, including the equipment and fixtures in the structure and its walls, roof, ceilings, windows and doors in a clean, sanitary, workable and attractive condition. However, each Owner has complete discretion as to the choice of furniture, furnishings and interior decorating; except that windows can be covered only by drapes, shutters, blinds or shades and cannot be painted or covered by foil, cardboard or other similar materials. Each Owner shall also be responsible for the maintenance, repair and replacement of all plumbing, electrical, heating, air conditioning and gas lines, conduits, apparatus and equipment servicing its, his, her or their Lot as well as repair, replacement and cleaning of the windows and glass of its, his, her or their structure. In addition, each Owner shall have the Improvements of its, his, her or their Lot periodically inspected for termites and, if their presence is discovered, immediately take appropriate corrective measures. If an Owner is required to make any repair or if the Owner desires to construct any Improvement or install any fixture or equipment that will affect the exterior appearance of the Lot and/or any structure on the Lot, the prior written approval of the Architectural Committee must first (1st) be obtained. However, such approval need not be obtained to make emergency repairs, provided that the structure so affected is restored to its original condition at the Owner’s expense.

B. Each Owner shall also be responsible for the maintenance of all of the exterior landscaping located on its, his, her or their Lot and to the greatest extent possible, native vegetation that requires limited water and is drought-tolerant shall be used. Any other provision in the Governing Documents notwithstanding, any Owner shall maintain the landscaping on its, his, her or their Lot in a safe, neat and orderly manner.

C. The Owners are hereby made aware that on the date of the Recording of the Declaration, there is an agreement in place, which is entitled, “**FIRE MANAGEMENT PLAN PREFUMO CREEK HOMES PROJECT Tract 2193, San Luis Obispo, California**” (“Fire Management Agreement”). The provisions of the Fire Management Agreement contain specific requirements that have application to the maintenance of the Lots.

1. Each Owner should obtain a copy of the Fire Management Agreement from the Association and review the provisions of same.

D. In addition to other remedies in the provisions of the Governing Documents and at law provided to the Association, in the event an Owner of any Lot fails to maintain its, his, her or their Lot and/or any Improvements thereon, as required by the provisions of this Section 4.14, the Association’s agents may, after compliance with the Due Process Requirements, enter the Lot and perform the necessary maintenance. The cost of such maintenance shall immediately be paid to the Association by the Owner of such Lot, together with interest at the rate of ten percent (10%) per annum from the date costs were incurred by the Association until the date the cost is paid by such Owner.

4.15 MONUMENTS.

A. Any monuments that have been installed in the Development by the Declarants shall be maintained by the Association and shall not be altered or removed by anyone without the approval of the Board.

4.16 OFFENSIVE CONDUCT; NUISANCE.

A. No noxious or offensive activities including, but not limited to, the repair of automobiles or other motorized vehicles, shall be conducted within the Development. Nothing shall be done on or within the Development that may be or may become an annoyance or nuisance to the residents of the Development, or that in any way interferes with the quiet enjoyment of occupants of Lots. Unless otherwise permitted by the Board, no Owner shall serve food or beverages, cook, barbecue or engage in similar activities except within such Owner's Lot.

4.17 OUTSIDE LAUNDERING AND DRYING.

No exterior clotheslines shall be erected or maintained within the Development and there shall be no exterior drying or laundering of clothes on balconies, patios, porches or other outside areas.

4.18 PARKING RESTRICTIONS; USE OF GARAGES.

A. Unless otherwise permitted or restricted by the Board or the provisions of this Section 4.18, no vehicle shall be parked or left in the Development other than within a garage, on the appurtenant driveway or within any designated guest parking area or space. At no time shall a motor vehicle of any kind be permitted on the front yard landscaping. No boat, trailer, recreational vehicle, camper, truck in excess of one (1) ton gross carrying weight, or commercial vehicle shall be parked or left in the Development for a period longer than forty-eight (48) hours over any two hundred forty (240) hour period.

B. No vehicle or equipment of any kind shall be parked on any of the Common Driveways other than for emergency purposes or while loading or unloading.

1. All of the curbs in the Common Driveways shall be painted red and appropriate no parking signage shall be placed in such red curb areas.
2. One of the principal objectives of the restrictions imposed by this Section 4.18 is to restrict, to the greatest extent reasonably possible, the parking of any vehicles or equipment for extended periods of time on the Common Driveways and thereby possibly interfering with emergency vehicles that are responding to urgent situations.

C. The Owners of "LOT 13" through "LOT 26," inclusive, and "LOT 33" through "LOT 35," inclusive, are hereby made aware that on the date of the Recording of the Declaration, there is an agreement in place, which is entitled, "GRANT OF EASEMENT AND AGREEMENT FOR COMMON DRIVEWAY" ("Agreement"). The provisions of the Agreement provide for, among other things, the reimbursement of the City for all costs connected with the removal of vehicles that are illegally parked in the Common Driveways.

1. Each Owner of "LOT 13" through "LOT 26," inclusive, should obtain a copy of the Agreement that affects their Lot from the Association and review the contents therein contained.

D. All driveways and garages shall be maintained in a neat and orderly condition and all garage doors shall remain closed except as is necessary to permit ingress and egress for vehicles or for the purpose of cleaning or working in the garage or the surrounding area. All of the garages in the Development shall be used and maintained at all times for the parking of two (2) vehicles and

appropriate storage only and shall not be converted for living, business or recreational activities if doing so would preclude the parking of two (2) vehicles in same.

E. The Association may, in accordance with the provisions of Vehicle Code section 22658.2, or any compatible superseding statutes, install a sign at each vehicular entrance to the Development containing a statement that public parking is prohibited and that all vehicles not authorized to park in the Development will be removed at the vehicle owner's expense. Any such sign shall contain the telephone number of the local traffic law enforcement agency and shall be not less than seventeen (17) inches by twenty-two (22) inches in size, with its lettering no less than one (1) inch in height.

F. No motor vehicle shall be constructed, reconstructed or repaired within the Development and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored in the Development unless screened from the view of any street Common Driveway or parking area or other Lot; provided, however, that the provisions of this Section 4.18, shall not apply to emergency vehicle repairs.

G. In addition and in compliance with the above-cited Vehicle Code, the Association may cause the removal of any vehicle wrongly parked on the Property, including a vehicle owned by the occupant of a Lot. If the identity of the vehicle owner is known or readily ascertainable, the Board, within a reasonable time, must notify the owner of such vehicle, by first-class mail, of said removal. If the identity of the owner of such vehicle is not known or readily ascertainable, the Board must send a written report of such removal, by mail, to the California Department of Justice in Sacramento if the vehicle has not been returned to its owner within one hundred twenty (120) hours. Immediately after any such vehicle has been removed, the Board must notify the local traffic law enforcement agency of said removal. Any such notice must include a description of the vehicle, the license plate number and the address from where the vehicle was removed. However, any vehicle may be removed without notice if it is parked in a marked fire lane, within fifteen (15) feet of a fire hydrant, if it occupies without proper authority a parking space designated for the handicapped or if it interferes with an entrance or exit of the Development.

4.19 RESIDENTIAL USE.

A. The Lots shall be used solely for the construction of permanent Residences together with any customary appurtenances that are designed for single-family purposes in conformity with the requirements imposed by suburban living, applicable zoning or other governmental regulations. No part of the Development shall be used, caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such nonresidential purposes, except for the following:

1. Any type of home occupation, provided that the proposed occupation meets the following criteria:
 - a. Any such occupation shall be conducted within no more than one (1) room of the Residence, excluding garages and artist studios;
 - b. There shall be no structural alterations of the exterior of the Residence to accommodate any such home occupation and the existence of said occupation shall not be apparent beyond the boundaries of the structure within which it is conducted;
 - c. No displays or advertising signs shall be permitted on the premises;
 - d. There shall be no more than two (2) customers, patients, clients, students or other persons served by said occupation upon the premises at any one (1) time;

- e. If so required by local ordinance, the City shall have issued a business license for said occupation; and
- f. Said occupation shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the Residence, Property or neighborhood.

B. Provided that, for a period of five (5) years from the date of the closing of the first (1st) sale of a Lot in the Development to an Owner other than the Declarants, Lots owned by the Declarants may be used by the Declarants or their designees, as models, sales offices and/or construction offices for the purposes of developing, improving and selling Lots.

4.20 RESTRICTION ON FURTHER SUBDIVISION AND SEVERABILITY.

A. No Lot shall be further subdivided by parcel, tentative or final map, Record of survey or in any other manner without prior written approval of the Board.

4.21 SETBACK REQUIREMENTS FOR LOTS.

A. Except as provided for in Subsection 4.21B., front yard setbacks for any Residence and other permanent structures, which include, but are not limited to, spas, patios and sheds, for the purposes of this Subsection 4.21A., all of which being collectively hereinafter referred to as the "Structur es," whether or not attached to the Residence, shall be fifteen (15) feet.

B. Front yard setbacks for any garages with garage doors that face the street shall be twenty (20) feet.

C. A thirty (30) foot building setback from the edge of the riparian vegetation that is located on "LOT 36" and "LOT 38" shall be established for "LOT 1" through "LOT 14," inclusive.

- 1. No disturbances within said setback area shall be permitted other than those that may be required to mitigate erosion problems or to ensure adequate drainage.

4.22 SIGNS.

A. No advertising signs or billboards shall be displayed on any Lot or posted within or upon any portion of the Common Area without the approval of the Board, except that Owners may display on their Lots any signs required by legal proceedings or a single "Fo r Rent," "Fo r Lease" or "For Sale" sign of reasonable dimensions and design.

B. In addition, such signs as may be used by the Declarants or their designees for the purpose of developing, selling and improving Lots shall be permitted, but only for a period of time not to exceed the date on which the last Lot is sold by the Declarants or five (5) years from the date of Recordation of the Declaration, whichever is sooner.

4.23 TEMPORARY LIVING QUARTERS.

A. No boat, truck, trailer, van, camper, recreational vehicle or tent shall be used as a living area while located within the Development. However, trailers or temporary structures for use incidental to the initial construction of the Development or the initial sales of Lots may be maintained within the Development, provided that such use does not unreasonably interfere with any Owner's use of the Common Area. Such trailers or structures will be promptly removed upon completion of all initial construction and all initial sales.

4.24 TIME SHARING PROHIBITED.

A. No Lot or any portion nor combination thereof, shall be leased, subleased, occupied, rented, let, sublet or used for or in connection with any time sharing agreement, plan, program or

arrangement, including, without limitation, any so called "vacation license," "travel club," "extended vacation" or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program or arrangement under which the right to use, occupy or possess a Lot, or any portion thereof, 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. The provisions of this Section 4.24 shall not be construed to limit the personal use of any Lot, or any portion thereof, by any Owner or its, his, her or their social or familial guests.

4.25 TRASH DISPOSAL.

A. No trash, garbage, rubbish or other waste material shall be allowed to accumulate on any Lot unless stored in an appropriate sanitary, covered disposal container that is located within an enclosed area adjacent to the Owner's Residence and screened from the view of any street, Common Driveway parking area or other Lot. An exception being that on the scheduled day for trash pickup, such receptacles may be located in the places specifically designated for pick-up purposes. Any extraordinary accumulation of rubbish, trash, garbage or debris, such as, but not limited to, debris generated upon vacating the premises or during the construction of modifications and improvements, shall be removed from the Development to a public dump or trash collection area by the Owner or tenant on whose Lot such accumulation exists, at its, his, her or their expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed of in a manner inconsistent with the provisions of this Section 4.25.

B. No toxic or hazardous materials, such as, but not limited to, fuels, oils, other petroleum products, chemicals, detergents or cleaners shall be disposed of within the Development by dumping them on the surface of the ground, in drainage ways, waterways or adjacent to the Property.

4.26 UNALLOCATED TAXES.

A. In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Regular Assessments and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes to be paid in two (2) installments. Each such installment shall be due thirty (30) days prior to the due date such tax is to be paid to the taxing authority.

ARTICLE V POWERS AND DUTIES OF THE ASSOCIATION

5.1 INCORPORATION.

A. The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California. At the Recording of the first (1st) Lot sale to an Owner other than the Declarants, the Association shall be charged with the duties and invested with the powers set forth in the provisions of the Governing Documents.

5.2 ACTION THROUGH DESIGNATED OFFICERS.

A. Except as to the matters requiring the approval of the Owners as set forth in the provisions of the Governing Documents, the affairs of the Association, including the exercise of its powers and duties, shall be conducted by the Board, such officers as the Board may elect or appoint, or

such persons or entities with delegated authority under the provisions of Section 5.7 of the Declaration, entitled, **“RIGHT OF THE BOARD TO DELEGATE ITS POWERS AND DUTIES.”**

5.3 STATEMENT OF ASSOCIATION POWERS.

A. The Association shall have all the powers granted to it by the provisions of section 383 of the California Code of Civil Procedure and of sections 1350 through 1373, inclusive, of the California Civil Code together with all the powers of a nonprofit mutual benefit corporation that has been organized under the provisions of the General Nonprofit Mutual Benefit Corporation Law of California, or any compatible superseding statutes, subject only to such limitations on the exercise of its powers as are set forth in the provisions of the Governing Documents. The Association shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under the provisions of the Governing Documents and to do and perform any act that may be necessary or proper for, or incidental to, the exercise of any of such express powers of the Association, including, but not limited to, the acts enumerated in the provisions of Sections 5.4 through 5.7, inclusive, of the Declaration.

5.4 ASSESSMENT RIGHTS.

A. The Board shall establish, fix and levy Assessments against the Owners, and collect and enforce payment of such Assessments in accordance with the provisions of the Governing Documents.

5.5 THE RIGHT TO ESTABLISH ASSOCIATION RULES.

A. The Board may adopt, amend and repeal Association Rules as it considers appropriate. The Association Rules shall regulate the use and enjoyment of the Development. A copy of the current Association Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. If any provision of the Declaration, the Articles or the Bylaws is inconsistent with or materially alters any Association and/or Architectural Rule, the provisions of the Declaration, the Articles or the Bylaws shall control to the extent of any such inconsistency.

B. Notwithstanding any other provisions of the Governing Documents to the contrary, any proposed Association Rules that are intended to apply solely to the regulation of the use and enjoyment of the Restricted Use Common Driveway Common Areas shall be adopted, amended and repealed only by those Members who are Common Driveway Lot Owners.

5.6 RIGHT TO IMPOSE SANCTIONS FOR A VIOLATION OF A PROVISION OF THE GOVERNING DOCUMENTS.

A. In addition to any other enforcement rights described in the provisions of the Governing Documents or authorized by law and subject to the Due Process Requirements, the Board may take any of the following actions against any person or entity, whose act or failure to act is a Violation or a threatened Violation of a Provision of the Governing Documents:

1. Impose monetary penalties, including late charges and interest;
2. Suspend voting rights in the Association;
3. Suspend use privileges for the Common Area; and
4. Commence a legal action for damages, injunctive relief, or both.

B. The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Board. Any legal action may be brought in the name of the Association in its own behalf as well as in behalf of any Owner who so consents and the prevailing party in such action shall recover costs and reasonable attorney's fees. The Board may take more than one (1) of the foregoing enforcement actions against any Violation or threatened Violation of a Provision of the

Governing Documents, provided that any suspension of use privileges shall not exceed thirty (30) days, unless such suspension is for delinquent Assessments and a monetary penalty shall not exceed fifty dollars (\$50.00), excluding late charges imposed for delinquent payments, for any Violation of a Provision of the Governing Documents. The Board, in its sole discretion, may resolve or settle any dispute, including any legal action under such terms and conditions as it considers appropriate.

C. The Board shall have the power to adopt a schedule of reasonable fines and monetary penalties for a Violation of a Provision of the Governing Documents, provided that any such schedule is distributed to each Member by personal delivery or first-class mail.

D. If any Member who is being disciplined so requests, the Board must meet in executive session and the Member is entitled to attend.

E. The Board may not cause a forfeiture or abridgement of an Owner's rights to the full use and enjoyment of its, his, her or their Lot except by the judgment of a court that has the appropriate jurisdiction, a decision arising out of an arbitration proceeding or on account of a foreclosure or sale under a power of sale for failure of the Owner to pay Assessment fees duly levied by the Association.

F. The enforcement of monetary penalties is subject to the restrictions described in the provisions of Section 7.7 of the Declaration, entitled, "**SPECIAL ASSESSMENTS - PURPOSE OF AND PROCEDURE FOR LEVYING.**"

G. If any Owner fails to cure a default within sixty (60) days after written notice to that Owner of such default, the Board shall give the notice required by the provisions of Section 12.7 of the Declaration, entitled, "**DEFAULT NOTICE REQUIREMENT,**" to any Eligible Mortgage Holder of Record who holds a Mortgage against such Owner's Lot.

5.7 RIGHT OF THE BOARD TO DELEGATE ITS POWERS AND DUTIES.

A. The Board and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility to:

1. Make expenditures for capital additions or Improvements chargeable against the Reserve Funds;
2. Conduct hearings concerning compliance by an Owner or its, his, her or their tenant, lessee, guest or Invitee with the provisions of the Governing Documents;
3. Make a decision to levy monetary fines, impose Special Assessments against individual Lots, temporarily suspend an Owner's rights as a Member or otherwise impose discipline;
4. Make a decision to levy Regular or Special Assessments; or
5. Make a decision to bring suit, Record a claim of lien or institute foreclosure proceedings for default in the payment of Assessments.

5.8 DUTIES.

A. In addition to the duties described in any other provision of the Governing Documents, the Association shall have the duties set forth in the provisions of Sections 5.9 through 5.20, inclusive, of the Declaration.

5.9 MANAGEMENT AND MAINTENANCE OF THE DEVELOPMENT.

A. The Board shall manage and maintain in good condition and repair the Common Area, including, but not limited to, the Major Components, any other Improvements that may be located thereon as well as any other personal or real property acquired by or subject to the management and maintenance responsibilities of the Association. Furthermore, no person other than the Association or

its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvements upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of, the Common Area that is managed or maintained by the Association. In addition, no person shall remove any shrub or other vegetation from, or plant any shrub or other vegetation upon, the Common Area without the express approval of the Board.

B. Without limiting the foregoing, the Association shall maintain any and all of the following:

1. The **"ZONE A FUEL MODIFICATION ESMT WITHIN LOTS VARIES 27.454 m," "ZONE A FUEL MODIFICATION & DRAINAGE EASEMENT 6.0 M MIN WITHIN LOTS 65.241 m," "ZONE B FUEL & DRAINAGE EASEMENT 15.240 m OUTSIDE PROPERTY LINE"** and **"ZONE C FUEL MODIFICATION EASEMENT 15.240 m OUTSIDE ZONE B,"** in a manner compatible with the requirements of the provisions of that certain agreement, entitled **"FIRE MANAGEMENT PLAN PREFUMO CREEK HOMES PROJECT Tract 2193, San Luis Obispo, California,"** which was prepared by Larry R. Flagg and dated September 22, 1997 (rev. November 2000).
2. The oak and riparian woodlands areas on **"LOT 36"** and **"LOT 38"** to ensure that no structure, planting or material of any kind or nature shall be placed or permitted to remain within such areas, which may damage or interfere with the management, control, maintenance, repair, replacement, restoration, landscaping and/or any other permitted uses of these areas.

5.10 CONTRACTING FOR GOODS AND SERVICES.

A. The Board shall enter into such contracts for services or materials as may be necessary to perform its duties, including any contracts with the Declarants, subject to the provisions of any and all of those Sections in the Governing Documents that have application thereto.

5.11 PAYMENT OF TAXES AND ASSESSMENTS.

A. The Board shall pay all real and personal property taxes and Assessments and all other taxes levied against the Association, the Common Area or any personal property owned by the Board. Such taxes and Assessments may be contested or compromised by the Association, provided they are paid or that a bond insuring payment is posted before the sale or disposition of any property to satisfy the payment of such taxes.

5.12 SECURING INSURANCE COVERAGE.

A. The Board shall obtain and maintain the insurance described in the provisions of Sections 8.1, 8.5 and 8.6 of the Declaration, entitled **"LIABILITY INSURANCE," "DIRECTOR AND OFFICER LIABILITY INSURANCE"** and **"WORKER' S COMPENSATION, DEMOLITION AND OTHER ASSOCIATION INSURANCE,"** respectively.

5.13 PREPARATION AND DISTRIBUTION OF FINANCIAL STATEMENTS, REPORTS AND COPIES OF THE GOVERNING DOCUMENTS.

A. The Board shall prepare and distribute the following financial statement, reports and copies of Governing Documents as indicated:

1. A balance sheet rendering as of an accounting date that is the last day of the month closest in time to six (6) months from the date of the closing of the first (1st) sale of a Lot in the Development to a purchaser other than the Declarants, hereinafter referred to as the "Accounting Date," and an operating statement for the period commencing with the date of the closing of such first (1st) sale and ending on the Accounting Date. Such operating statement shall include a schedule of the total Assessments received and/or receivable which are identified by the Lot number and name of the Owner against which and whom such Assessments have been levied. Copies of such balance sheet and operating statements shall be distributed to each Owner and any Eligible Mortgage Holder.
2. A Budget for each Fiscal Year shall be distributed not less than forty-five (45) days nor more than sixty (60) days before the beginning of such Fiscal Year consisting of at least the following:
 - a. The estimated revenues and Common Expenses on an accrual basis;
 - b. A summary of the Association's reserves based upon the most recent review or study conducted under the provisions of California Civil Code section 1365.5, or compatible superseding statutes, which summary shall be printed in boldface type and include all of the following:
 - (1) The current estimated replacement cost, estimated remaining life and estimated useful life of each Major Component.
 - (2) As of the end of the Fiscal Year for which the study is prepared:
 - (i) The current Reserve Account Requirements necessary to repair, replace, restore or maintain the Major Components;
 - (ii) The current amount of Reserve Funds;

- (iii) If applicable, the amount of funds received from either a compensatory damage award or settlement to the Association from any person, for injuries to property, real or personal, arising out of construction or design defects and the expenditure or disposition of any such funds, including the amounts disbursed for the direct and indirect costs of repair of any construction or design defects. These amounts shall be Recorded at the end of the Fiscal Year for which the study is prepared, as separate line items under Reserve Funds, pursuant to the provisions of Subsection 5.13A.2.b.(2)(ii). In lieu of complying with the foregoing requirements, if the Association is obligated to issue a review of its financial statement, the Board may include with such review a statement containing all of the information required by the provisions of this Subsection 5.13A.2.b.(2)(iii); and
 - (iv) The percentage of the amount in 5.13A.2.b.(1) above, that the amount in 5.13A.2.b.(2) above, represents;
 - c. A statement as to whether the Board has determined or anticipates that the levy of one (1) or more Special Assessments will be required to repair, replace or restore any Major Component or to provide adequate Reserve Funds for them;
 - d. A general statement addressing the procedures used for the calculation establishing Reserve Funds;
 - e. A general statement regarding the Members' right to have copies of the minutes of meetings of the Board and how and when these minutes may be obtained; and
 - f. Instead of distributing the Budget, the Board may elect to distribute a summary of the Budget to all of the Members with a written notice that the Budget is available at the business office of the Association or at another suitable location within the boundaries of the Development and that copies will be provided upon request at the expense of the Association. Such notice must be in at least ten (10) point boldface type and must appear on the front page of the summary of the Budget. Any Member who requests a copy of the Budget shall be provided a copy by the Board, which shall be sent by first-class United States mail at the Association's expense, within five (5) days of the date the Board received such request.
- 3. Any summary of the Reserve Funds that have been disseminated pursuant to the provisions of Subsection 5.13A.2.b., above, shall not be admissible as evidence to show improper financial management of the Association.

4. An annual report, which for the purposes of the provisions of this Subsection 5.13A.4., shall be hereinafter referred to as the "Annual Report," consisting of the Association's balance sheet rendered as of the last day of the preceding Fiscal Year; the Association's operating statement for such Fiscal Year and a statement of the changes in the Association's financial position for the Fiscal Year. A copy of the Annual Report shall be distributed to each Owner and any Eligible Mortgage Holder within one hundred twenty (120) days after the close of such Fiscal Year. In any Fiscal Year in which the gross income of the Association exceeds seventy-five thousand dollars (\$75,000.00), either a copy of a review of the Annual Report for such Fiscal Year that has been prepared by a licensee of the California State Board of Accountancy in accordance with the generally accepted accounting principles, or a certificate which has been acknowledged by an authorized officer of the Association that the report was prepared from the books and records of the Association, without independent audit or review, shall be distributed with the Annual Report for such Fiscal Year.
5. A statement of the Association's policies and practices in enforcing its remedies against Owners for delinquent, Regular or Special Assessments including, but not limited to, the Recording and foreclosing of liens against a delinquent Owner's Lot(s). A copy of such statement shall be distributed to each Owner and any Eligible Mortgage Holder.
6. A copy of the Governing Documents and the statement regarding delinquent Assessments that is described in the provisions of Section 7.13 of the Declaration, entitled, "**DELIVERY OF REQUESTED ITEMS**," shall be provided to any Owner within ten (10) days of the mailing or delivery of a written request to the Board for same from such Owner. The Board may impose a fee to provide such materials, which fee shall not exceed the Association's reasonable cost in preparing and reproducing such materials.
7. A summary of the provisions of California Civil Code section 1354, or any compatible superseding statutes, which shall include the following language:
"Failure by any Member of the Association to comply with the pre-filing requirements of the provisions of section 1354 of the California Civil Code may result in the loss of your rights to sue the Association or another Member of the Association regarding enforcement of the Governing Documents."
8. A summary of the Association's property, general liability, earthquake and flood insurance policies, which are, for the purposes of the provisions of this Section 5.13, individually and collectively hereinafter referred to as the "Policy" or "Policies," shall be distributed to the Members within sixty (60) days preceding the beginning of the Fiscal Year. Such summary shall include the following information on such Policies:
 - a. Name of the insurer;
 - b. Type of insurance;
 - c. Policy limits of the insurance; and
 - d. Amount of deductibles, if any.

9. The Board, as soon as reasonably practical, shall notify the Members by first-class mail if any of the Policies have been cancelled and have not been immediately renewed or restored or if there is a significant change, such as a deduction in coverage or limits or an increase in the deductible for any Policy. If the Association receives any notice of non-renewal of a Policy, the Board shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.
10. To the extent that the information required to be disclosed by the provisions of this Section 5.13 is specified in the provisions of the Policy declaration page, the Board may meet its disclosure obligations by making copies of that page and distributing such copies to all its Members.
11. The summary required in the provisions of these Subsections 5.13A.7. through 5.13A.9., inclusive, above, shall contain, in at least ten (10) point boldface type, the following statement:

“This summary of the Association’s policies of insurance provides only certain information as required by the provisions of subdivision (e) of section 1365 of the Civil Code and should not be considered a substitute for the complete policy and conditions contained in the actual policies of insurance. Any Member, upon request and reasonable notice, may review the Association’s insurance policies and, upon request and payment of reasonable duplication charges, may obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association’s policies of insurance may not cover your property, including personal property, or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult with their individual insurance brokers or agents for appropriate additional coverage.”

5.14 ENFORCEMENT OF BONDED OBLIGATIONS.

A. If the Association is the obligee under a bond or other security arrangement, hereinafter referred to as the “Bond,” to secure performance of a commitment of the Declarants, or their successors or assigns, to complete the Common Area Improvements which were not completed at the time a Final Subdivision Public Report was issued, the Board shall consider and vote on the question of taking action to enforce the obligations that are secured by such Bond on any Common Area Improvement for which a Notice of Completion has not been filed by the later of:

1. Sixty (60) days after the completion date specified for such Improvement in the “Planned Construction Statement” appended to the Bond; or
2. Thirty (30) days after the expiration of any written extension given by the Board.

B. If the Board fails to consider and/or vote on the action to enforce the obligations under a Bond, or if the Board decides not to initiate action to enforce the obligations under a Bond, then, on receipt of a petition signed by the Owners who represent not less than five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of the Owners for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligation under such Bond, whichever is applicable. The Board shall give a written

notice of the meeting to all of the Members who are entitled to vote on such a matter, in the manner provided for in the provisions of the Governing Documents for a notice of a special meeting of Owners. Such a special meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt of such a petition. At such a special meeting, the vote in person or by proxy of the majority of the Members entitled to vote, other than the Declarants, in favor of taking action to enforce the obligations under the Bond shall be considered the decision of the Association and the Board shall implement this decision by initiating and pursuing any appropriate action in the name of the Association.

C. Should the circumstances dictate, the Board shall act in a reasonably prompt manner to exonerate the Declarants and their surety(ies) under any Bond in favor of the Association.

5.15 OTHER DUTIES.

A. The Board shall perform such other acts as may be reasonably necessary to exercise its powers or perform its duties under any of the provisions of the Governing Documents or any Board resolutions.

5.16 LIMITATIONS ON THE AUTHORITY OF THE BOARD OR THE ASSOCIATION.

A. The Board shall not take any of the following actions, unless it has the assent of a simple majority of the Members other than the Declarants, who constitute a quorum consisting of fifty-one percent (51%) of the voting power of the Association residing in Members other than the Declarants. Such assent shall have been granted by a vote at a meeting of the Association or, after complying with the provisions of Corporations Code section 7513, or any compatible superseding statutes, by a written ballot without a meeting:

1. Incur aggregate expenditures for capital Improvements to the Common Area in any Fiscal Year that are in excess of five percent (5%) of the Budgeted Common Expenses for such Fiscal Year;
2. Sell, during the Fiscal Year, property of the Association having an aggregate Fair Market Value greater than five percent (5%) of the Budgeted Common Expenses for the Fiscal Year;
3. Pay compensation to the Directors or to the officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse any Director and/or officer of the Association for expenses incurred in carrying on the business of the Association; or
4. Enter into a contract with a third (3rd) person for such person to furnish goods and/or services for or to, as the case may be, the Common Area and/or the Association, for a term longer than one (1) year, with the following exceptions:
 - a. A management contract, the terms of which have been approved by the Federal Housing Administration or the Veterans Administration;
 - b. A contract with a public utility company if the rate charged for the materials or services are regulated by the Public Utilities Commission, provided, the term does not exceed the shortest term for which the supplier will contract at the regulated rate;
 - c. Prepaid casualty or liability insurance policies that do not exceed three (3) years in duration, provided, the policy allows for a short rate cancellation by the insured;
 - d. Lease agreements for equipment that do not exceed five (5) years in duration, provided, the Declarants do not have a direct or indirect

- ownership interest of ten percent (10%) or more in any lessor under such an agreement;
- e. Agreements for cable television services and equipment or satellite dish television services and equipment, not exceeding five (5) years in duration, provided, the supplier is not an entity in which the Declarants have a direct or indirect ownership interest of ten percent (10%) or more;
 - f. Agreements for the sale or lease of burglar alarm and/or fire alarm equipment, installation and services that do not exceed five (5) years in duration, provided, the supplier or suppliers are not entities in which the Declarants have a direct or indirect ownership interest of ten percent (10%) or more; and
 - g. Agreements for a term that does not exceed three (3) years in duration, which are subject to termination by the Association, without cause, penalty or other obligation, after being in force for no longer than one (1) year, upon the giving of a ninety (90) day written notice of termination to all of the other parties to any such agreement.

B. Notwithstanding anything herein to the contrary, but subject to the provisions of Subsection 5.16D., below, the Board shall not institute any significant legal proceedings, including any arbitration or judicial reference proceeding, for the purposes of the provisions of this Section 5.16, being collectively hereinafter referred to as the "Significant Legal Proceeding(s)," against any person without providing the Members with at least one hundred and twenty (120) days' prior written notice, which, for the purposes of the provisions of this Section 5.16, is hereinafter referred to as the "Proceedings Notice," of the Association's intentions to institute such Significant Legal Proceedings. The Proceedings Notice shall describe the purpose of such Significant Legal Proceeding, the parties to the Significant Legal Proceeding, the anticipated cost to the Association, including attorney fees, to process such Significant Legal Proceeding, the source of the funds to process such Significant Legal Proceedings (Reserve Funds, Special or Regular Assessments, etc.), and any suggested information that should be disclosed to third (3rd) parties, such as, but not limited to, prospective purchasers and lenders, while such Significant Legal Proceeding is being prosecuted. For the purposes of the provisions of this Section 5.16, "Significant Legal Proceeding" shall mean a legal proceeding in which it is reasonable to anticipate that any of the following events might occur:

1. The levy of a Special Assessment to fund all or any portion of a legal proceeding;
2. The expenditure of more than five percent (5%) of the then current Reserve Funds in connection with a legal proceeding in an amount in excess;
3. The amount of the claim of a legal proceeding that is or will be in excess of twenty thousand dollars (\$20,000.00); or
4. A material adverse effect on the ability to sell and/or refinance the Lots will occur during the period a legal proceeding is being prosecuted.

C. If the proposed Significant Legal Proceeding is against the Declarants, any other developer, or any contractor, subcontractor, architect, engineer or materials supplier, who is or has been, as the case may be, engaged by or on behalf of the Declarants and/or any other developer, for the design or alleged damage of or to, as the case may be, the Development or any elements thereof, the notice shall also specify each of the following, unless not required by reason of the provisions of Civil Code sections 1375(g)(1)(E) or 1375(g)(2)(D), or any compatible superseding statutes:

1. That a meeting will take place to discuss problems that may lead to the filing of a Significant Legal Proceeding together with the time and place of such meeting; and
2. The known options available to address the problems.

D. Notwithstanding the foregoing, the Proceedings Notice shall not be required to commence and pursue any action to collect delinquent Assessments as described in the provisions of Section 7.14 of the Declaration, entitled, "**ASSOCIATION'S POWER TO ESTABLISH ASSESSMENT LIEN**," or to enforce any Common Area completion bond as described in the provisions of Section 5.14 of the Declaration, entitled, "**ENFORCEMENT OF BONDED OBLIGATIONS**." Furthermore, if the Board, in good faith, determines that there is insufficient time to provide prior notice to the Members, as required herein, before the expiration of any applicable statute of limitations or before the loss of any significant right of the Association, the Board may take the necessary steps to commence a Significant Legal Proceeding to preserve the rights of the Association, provided that as soon as is reasonably practical thereafter and not later than thirty (30) days following the commencement of such Significant Legal Proceeding, the Board shall provide the Members with a Proceedings Notice.

E. If the proposed Significant Legal Proceeding is brought by the Association or any Owner or any combination of same, against the Declarants, other developer or any contractor, subcontractor, architect, engineer or materials supplier, who is or who has been, as the case may be, engaged by or on behalf of, the Declarants and/or any other developer, for the design or alleged damage of or to, as the case may be, the Development or any elements thereof, the Association and/or any Owner or any combination thereof, hereinafter referred to as the "Complaining Party," shall send the Declarants and/or any other developer, contractor, subcontractor, architect, engineer or materials supplier, as the case may be, hereinafter referred to as the "Responding Party," a thirty (30) day written notice of the nature of the dispute, the facts giving rise to its claim and its, his, her or their intent to initiate litigation, hereinafter referred to as the "Litigation Notice."

F. The Proceedings Notice shall name a mediator. The Responding Party shall be obligated to pay any fee to initiate mediation; however, the cost of mediation, including any attorney's fees, shall ultimately be borne as determined by the parties if the mediation results in a settlement of the dispute. If the Responding Party does not agree with the Complaining Party's choice of a mediator, the Responding Party, within ten (10) days of the Responding Party's receipt of the Proceedings Notice, shall request that the American Arbitration Association to select a mediator from its panel. If the Responding Party has not made such a request of the American Arbitration Association within the ten (10) day time requirement, the mediator that was selected by the Complaining Party shall serve. Within thirty (30) days after the mediator is chosen, the parties shall schedule and attend a mediation session and make a good faith effort to resolve their dispute. If the mediation session does not resolve the dispute or if the Responding Party refuses to attend, the dispute shall be submitted to and conclusively determined by binding arbitration in accordance with the provisions of Subsections 5.16G. through 5.16N., inclusive, below.

G. Neutral and impartial individuals shall be appointed to serve as arbitrator(s), with such arbitrator(s) to be appointed within a reasonable period of time, which in no event shall be more than sixty (60) days from the administrator's receipt of a written request from a party to arbitrate a claim or dispute. In selecting the arbitrator(s), the provisions of section 1297.121 of the Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed in the provisions of the above referenced code section. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

H. The arbitration shall be conducted in San Luis Obispo County, California.

I. The parties shall submit to the arbitration all written, documentary or other evidence, and give any oral testimony that is reasonably necessary for a proper resolution of the dispute. Copies of all of the written submittals shall be provided to the arbitrator(s) and the parties on each side. The arbitrator(s) shall conduct such hearings as he, she or they consider necessary, may require the submission of briefs or points and authorities, and may submit written questions to the parties. The parties shall respond to such questions in writing. If a question is addressed to less than all of the parties, copies of the question and the answer thereto shall be served on the other parties.

J. At the arbitration hearing, any party may present any relevant evidence and the formal rules of evidence applicable to judicial proceeding shall not govern. Evidence shall be admitted or excluded at the sole discretion of the arbitrator(s).

K. The procedures that are set forth in the provisions of this Subsection 5.16 for the resolution of Disputes ("Dispute Resolution Procedure") is intended to be implemented in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. sections 1-16), which is designed to encourage the use of alternative methods of dispute resolution that avoid costly and potentially lengthy traditional court proceedings. Therefore, the Dispute Resolution Procedure is to be interpreted and enforced as authorized by the above referenced Federal Arbitration Act. Parties interpreting the provisions of this Subsection shall follow the federal court rulings, such as, but not limited to, *Allied-Bruce Terminix Companies, Inc. v. Dobson*, 115 S.Ct. 834 (1995), which provide, without limitation, that the Federal Arbitration Act (1) is a congressional declaration of a liberal federal policy favoring an alternative to law suits for the resolution of disputes, notwithstanding substantive or procedural state policies to the contrary, (2) requires that federal and state courts rigorously enforce agreements for alternative dispute resolution, and (3) requires that the scope of any issues subject to alternative dispute resolution be resolved in favor of such alternative dispute resolution. Any references in the provisions of the Governing Documents to California Code sections are not to be interpreted as a waiver of rights created under the above referenced federal cases and/or Federal Arbitration Act.

L. The arbitration shall proceed with due dispatch and a decision shall be rendered within a reasonable time after appointment of the arbitrator(s) and presentation of the facts and evidence. The arbitrator's(s)' decision shall be in writing and in a form sufficient for entry of a judgment in any court of competent jurisdiction in the state of California.

M. The arbitrator(s) shall be authorized to render any and all of the recognized remedies that are available in the law or equity for any cause of action that is the basis of any such arbitration. In no event shall an arbitrator's(s)' award include a component for punitive or exemplary damages. The Responding Party shall be obligated to pay any fee that is required to initiate such arbitration; however, the costs of the arbitration proceeding, including, but not limited to, any attorney's fees, shall be borne as ultimately determined by the arbitrator(s).

N. Provided that, if the Complaining Party and the Responding Party have entered into a settlement agreement or the matter has otherwise been resolved, as soon as is reasonably practical thereafter, the Board shall provide a written notice, which may from time to time be amended, modified or supplemented, to each of the current Members of such resolution. Such notice shall include each of the following items:

1. A general description of the damages, as of the date of such notice, that the Board reasonably believes will be repaired or replaced;
2. A good faith estimate, as of the date of such notice, when the Board believes that the damage will be repaired or replaced; and
3. The status of any claims that will not be repaired or replaced and that were either expressed in a primary list of the defects that were sent to the Members or that were otherwise claimed and disclosed to the Members.

5.17 LIMITATION ON LIABILITY OF OFFICERS AND DIRECTORS.

A. Subject to the provisions of Subsection 5.17B., below, no Director, officer, committee member, employee or other agent of the Association, including the Declarants or any agent of the Declarants when acting in such capacity, all of whom, for the purposes of the provisions of this Section 5.17, being collectively and individually hereinafter referred to as the "Released Party(ies)," shall be personally liable to any of the Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities for their failure to provide any service required under the provisions of the Governing Documents, provided that such Released Party(ies) has/have, upon the basis of such information as may be possessed by the Released Party(ies), acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstance.

B. Without limiting the generality of the foregoing, such standard of care and limitation of liability shall extend to such matters as the establishment of a Base and/or Driveway Cost Center Budget, the funding of the Reserve Accounts, the repair and maintenance of the Common Areas as well as the Major Components together with the enforcement of the provisions of the Governing Documents.

C. No person who suffers bodily injury, including, without limitation, emotional distress or wrongful death, as a result of the tortuous act or omission of a volunteer Director or officer of the Association shall recover damages from such Director and/or officer if all of the following conditions are satisfied:

1. The Board member or officer is an Owner of no more than two (2) Lots;
2. The act or omission was performed within the scope of the volunteer Director's and/or officer's Association duties;
3. The act or omission was performed in good faith;
4. The act or omission was not willful, wanton or grossly negligent;
5. The Association maintained and had in effect at the time the act or omission occurred and at the time a claim was made one (1) or more policies of insurance that included coverage for general liability of the Association and individual liability of the Directors and officers of the Association for negligent acts or omissions in their official capacities, with minimum coverage for both types of insurance being not less than one million dollars (\$1,000,000.00).

D. The payment of the actual expenses incurred by a Director and/or officer of the Association in the execution of that person's Association duties shall not affect that person's status as a volunteer Director and/or officer of the Association for the purposes of the provisions of this Section 5.17. However, any Director and/or officer of the Association who receives direct or indirect compensation from the Declarants or from a financial institution that acquired a Lot as a result of a judicial or nonjudicial foreclosure proceeding, is not a volunteer.

E. The provisions of this Section 5.17 are intended to reflect the protections accorded to volunteer Directors and officers of community associations under the provisions of California Civil Code section 1365.7. In the event said Civil Code section 1365.7 is amended or superseded by another compatible provision of the California statutes, the provisions of this Section 5.17 shall be deemed amended, without the necessity of further Owner approval, to correspond to such amended or successor Civil Code provisions.

5.18 DELIVERY OF DOCUMENTS AND INSPECTION OF ASSOCIATION BOOKS AND RECORDS.

A. The Declarants and their successors and assigns, shall, commencing no later than ninety (90) days after the close of escrow on the sale of the first (1st) Lot in the Development, other than to the Declarants, deliver or cause to be delivered, as soon as they are readily obtainable, one (1) copy of each of the documents listed in the provisions of Subsection 5.18B., below, that have application to the Development, or to the Association, at the Association office or at such other location as the Board may from time to time designate by written notification to the Declarants, provided that, such obligation shall terminate upon the earliest to occur of the following events:

1. The conveyance of the last Lot in the Development that is covered by a Final Subdivision Public Report to an Owner other than the Declarants; or
2. Five (5) years from the date of expiration of the most recent Final Subdivision Public Report covering the Development or any portion thereof.

B. The documents to be delivered, if applicable, are:

1. The Recorded Subdivision Map(s) for the Development.
2. The deeds and easements executed by the Declarants conveying the Common Area or other interest to the Association.
3. The Recorded Declaration, including any amendments and/or supplements thereto.
4. The filed Articles, if any, and any amendments thereto.
5. The Bylaws, including any amendments thereto.
6. Any Architectural and/or Association Rules together with any other rules regulating the use of an Owner's interest in the subdivision or use of the Development, which have been promulgated by the Association.
7. Any plans that have been approved by any agency that has the jurisdiction to approve same, for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans, bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy.
8. All Notice of Completion certificates issued for Common Area Improvements, other than residential structures.
9. Any bond or other security devise of which the Association is the beneficiary.
10. Any written warranty being transferred to the Association that covers any of the Common Area equipment, fixtures, Major Components or Improvements.
11. Any insurance policy procured for the benefit of the Association, its officers, the Board or the Common Area.
12. Any lease or contract to which the Association is a party.
13. The Members register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Board and of committees of the Board.
14. Any other instrument that has not been described above, whose provisions establish or define the common, mutual and/or reciprocal rights or responsibilities of the Members.

C. Any Owner, or such Owner's duly appointed representative, shall have access to any of the above referenced documents, books of account and minutes from any meeting of the Owners, the Board, with the exception of any minutes of an executive session of the Board, or any committee of the Board in order to inspect and copy such records and/or documents for any purpose reasonably related

to its, his, her or their interest as an Owner. Access shall be at any reasonable time at the office of the Association or such other place within the Development as the Board prescribes. The Board shall establish rules regarding the notice the Owner must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied and the charges imposed by the Association for copying records requested by an Owner.

5.19 LITIGATION.

A. Subject to the provisions in Section 5.16 of the Declaration, entitled, "**LIMITATIONS ON AUTHORITY OF THE BOARD OR THE ASSOCIATION,**" and California Civil Code section 1354, or any compatible superseding statutes, the Board has the authority to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation or administrative proceedings in matters pertaining to:

1. The enforcement of the provisions of the Governing Documents;
2. Damage to the Common Area;
3. Damage to any Lot which the Association is obligated to maintain or repair; or
4. Damage to a Lot which arises out of, or is integrally related to, the Common Area or a Lot that the Association is obligated to maintain or repair.

5.20 FILING WITH CITY.

A. The Association shall, within fifteen (15) days of any changes in the names of the officers of the Association, file with the City Clerk a statement containing the names and complete business or residence addresses of all of its officers.

ARTICLE VI PROVISIONS DECLARING MEMBERSHIP AND VOTING RIGHTS

6.1 MEMBERSHIP IN THE ASSOCIATION.

A. Each Owner, including the Declarants, shall be a Member.

B. Membership shall be appurtenant to each Lot and the holding of an ownership interest in the fee title to a Lot shall be the sole qualification for Membership, provided that no Owner shall hold more than one (1) Membership, even though such Owner owns an interest in the fee title to more than one (1) Lot.

C. Membership shall terminate automatically when the Member Owner no longer holds an ownership interest in a Lot.

D. Membership may not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of and interest in the fee title to a Lot and then only to the transferee.

1. Any attempt to make a prohibited transfer shall be void.

E. Any transfer of and interest in the fee title to a Lot shall automatically transfer the appurtenant Membership to the transferee.

F. Any party that holds an interest in a Lot merely as security for the performance of an obligation shall not be entitled to Membership based on such interest.

G. Each Member shall have the right, duties and obligations as set forth in the provisions of the Governing Documents.

6.2 VOTING SYSTEM.

A. Except as may otherwise be provided for in the provisions of the Governing Documents, including, but not limited to, the provisions of Subsection 6.2B., below, and Section 6.3 of the Declaration, entitled, “**TWO CLASS SYSTEM; WEIGHTED VOTES,**” all matters requiring approval of the Members shall be deemed approved if the Members who hold a majority of the total voting power of the Association assent to them by written consent or, either in person or by proxy, by their affirmative vote at any duly called regular or special meeting.

B. Notwithstanding any other provisions of the Governing Documents to the contrary, any action to be taken that will establish, provide for, govern, regulate or relate to matters that affect only the management and/or maintenance by the Association of a Driveway Cost Center, which requires the vote or approval of the Members shall be deemed approved if the Members who hold a majority of the total voting power of the Driveway Cost Center Owners whose Lots are located in the Driveway Cost Center that will be affected, assent to such matters by written consent or, either in person or by proxy, by their affirmative vote at any duly called regular or special meeting of the Members.

6.3 TWO CLASS SYSTEM; WEIGHTED VOTES.

A. The Association shall have two (2) classes of voting Membership as follows:

1. Class A:

a. The Class A Members shall be all of the Members other than the Declarants.

b. Subject to the provisions of Subsection 6.3A.1.c., below, each Lot whose fee title interest is held by a Class A Member or Members, as the case may be, shall be entitled to one (1) vote.

(1) If there is more than one (1) Member who owns a fee title interest in a Lot, only one (1) vote may be cast with respect to such Lot.

(2) The vote that is attributed to each Lot may not be cast on a fractional basis.

(a) If the Members are unable to agree as to how the vote should be cast, the vote shall be forfeited on the matter in question.

(b) If one (1) Member casts the vote attributed to such Lot, the vote shall conclusively bind all of the Members who are Owners of a fee title interest in such Lot.

(c) If more than one (1) Member casts the vote attributed to a Lot in any manner in which only one (1) vote could be cast for that Lot, the votes cast by such Members shall not be counted and shall be considered void.

2. Class B:

a. The Class B Member shall be the Declarants, who will be entitled to three (3) votes for each Lot in which the Declarants hold the fee title.

b. A Class B Membership shall cease and be irreversibly converted to a Class A Membership on the occurrence of one (1) of the following events, whichever is the first (1st) to occur:

- (i) When the total outstanding Class A Membership votes equal the total outstanding Class B Membership votes; or
- (ii) On the second (2nd) anniversary of the first (1st) conveyance of an interest in the fee title of a Lot to an Owner other than the Declarants.

B. As long as two (2) classes of voting Membership exist, any action by the Association that requires the approval of the Members shall require the approval of the designated percentage of the voting power of each class provided for in the provisions of the Governing Documents.

C. The voting rights appurtenant to any Lot shall vest at the time an Assessment has been levied by the Board against such Lot

ARTICLE VII ASSESSMENTS

7.1 ASSESSMENTS – AGREEMENT TO PAY.

A. The Declarants covenant and agree for each Lot owned by them that is expressly made subject to Assessments as set forth in the provisions of the Governing Documents. Each Owner by acceptance of a deed that conveys an ownership interest in title to a Lot, covenants and agrees for each Lot in which such an interest is held, to pay to the Association any Regular and/or Special Assessments levied in accordance with the provisions of the Governing Documents and to allow the Board to enforce any Assessment lien established in accordance with the provisions of the Governing Documents by nonjudicial proceedings under a power of sale or by another means that may be authorized by law.

7.2 LIMITED EXEMPTION FROM ASSESSMENT DURING CONSTRUCTION.

A. Notwithstanding the provisions of Section 7.1 of the Declaration, entitled, “ASSESSMENTS – AGREEMENT TO PAY,” any Lot upon which there are no structural Improvements for human occupancy shall be exempt from the payment of that portion of any Assessments that is for the purpose of defraying any Common Expenses and/or providing Reserve Funds that are directly attributable to the existence and use of a structural Improvement. The exemption may include, but is not limited to:

1. Roofs;
2. Exterior maintenance;
3. Walkway and carport lighting;
4. Refuse disposal;
5. Cable television; and
6. Domestic water supply to the Residences.

B. The foregoing exemptions shall be in effect until the earlier to occur of the following events:

1. Recordation of a Notice of Completion for any such structural Improvements and/or commencement of the maintenance or activity for which an exemption is being taken; or
2. Any such structural Improvement that has been placed in use.

C. In addition, the Declarants and any Owner are exempt from the payment of that portion of any Assessments that is for the purpose of defraying Common Expenses and/or providing Reserves Funds that are directly attributable to the existence and use of a Major Component and/or portion of the

Common Area that is not complete at the time Assessments commence. This exemption from the payment of Assessments shall be in effect until the earliest of the following events:

1. Recordation of a Notice of Completion for any such Major Components and/or portion of the Common Area that has been Recorded; or
2. Any such Major Component and/or portion of the Common Area that has been placed into use.

7.3 ASSESSMENTS AS THE PERSONAL OBLIGATION OF AN OWNER.

A. Each Assessment and/or installment, together with any late charge, interest, collection costs and/or reasonable attorney's fees that are associated with same, shall be the personal obligation of the Owner at the time such Assessment, installment, late charge, interest, collection cost and/or reasonable attorney's fee becomes due and payable. If there is more than one (1) Owner of a particular Lot, each Owner shall be jointly and severally liable. The personal obligation for any delinquent Assessments or installments and related sums shall not pass to an Owner's successor in interest unless expressly assumed by such successor in interest. No Owner may be relieved from the obligation to pay any Assessments, installments, late charge, interest, collection cost and/or reasonable attorney's fee by waiving the use or enjoyment of all or any portion of the Common Area or the Owner's Lot, or by abandoning such Lot.

7.4 SCOPE OF ASSESSMENT – AUTHORITY.

A. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members, to improve, replace, repair, operate and maintain the Common Area, the landscaping, the Major Components as well as any Association personal property, wherever such items may be located, to provide funds necessary for the performance of the duties of the Association as set forth in the provisions of the Governing Documents and to further any other purpose that is for the common benefit of the Members in promoting their use and enjoyment of the Property.

7.5 ESTABLISHMENT OF REGULAR ASSESSMENTS.

A. The Board shall establish an Advisory Cost Center Budget Committee. ("Budget Committee")

1. The Budget Committee shall be composed of the four (4) Cost Center Directors.
2. The members of the Budget Committee shall not be entitled to any compensation for services performed pursuant to the provisions of the Governing Documents that have application to the Budget Committee.

B. Not more than one hundred and twenty (120) days nor less than ninety (90) days before the beginning of each and every Fiscal Year, the Budget Committee shall meet for the purpose of establishing those portions of the Regular Assessment for the forthcoming Fiscal Year, which are to be levied for the purpose of Common Expenses that are specifically attributable to the Driveway Cost Centers, including any Reserve Funds.

1. At such meeting the Budget Committee shall review their proposed recommendations to the Board for the Driveway Cost Center Budgets for such Fiscal Year, any written recommendations and comments that have been received from the Cost Center Owners, and/or their Mortgagees, together with any other pertinent information that has been made available to the Budget Committee.

C. After making any adjustments that the Budget Committee considers appropriate it will submit its recommendations in writing to the Board.

D. Not more than ninety (90) days nor less than sixty (60) days before the beginning of each and every Fiscal Year, the Board shall meet for the purpose of establishing a Regular Assessment for the forthcoming Fiscal Year.

1. At such meeting the Board shall review the proposed Base and Driveway Cost Center Budgets for such Fiscal Year, any written recommendations and comments that have been received from the Budget Committee, the Members, and/or their Mortgagees, together with any other pertinent information that has been made available to the Board.
2. After making any adjustments that the Board considers appropriate, the Board, subject to the restrictions described in the provisions of Subsections 7.5E. and 7.5G., below, shall establish the Regular Assessment for the forthcoming Fiscal Year.

E. Subject to the provisions of Subsection 7.5E.1., below, the Board may not establish a Regular Assessment for any Fiscal Year that is more than one hundred and twenty percent (120%) of the Regular Assessment for the immediately preceding Fiscal Year, with the exception of the Association's first (1st) Fiscal Year, if it is less than twelve (12) months in duration, without the approval of a majority of those Members who are entitled to vote, at a Membership Meeting where, for the purposes of the provisions of this Subsection 7.5E., a quorum of fifty percent (50%) of the Members who are entitled to vote is present..

1. Notwithstanding any other provisions of the Governing Documents to the contrary and with the exception of the Association's first (1st) Fiscal Year, if it is less than twelve (12) months in duration, the Board may not levy that portion of a Regular Assessment that pertains to the Common Expenses in a Driveway Cost Center Budget for any Fiscal Year, which is more than one hundred and twenty percent (120%) of such portion of the Regular Assessment for the immediately preceding Fiscal Year, without the approval of a majority of those Members who are Cost Center Owners of Lots that are located in the Driveway Cost Center that will be affected by such increase and are entitled to vote at a Membership Meeting.

F. The foregoing restrictions on a Regular Assessment increase do not apply to increases that are necessary for emergency situations.

1. For the purposes of the provisions of this Section 7.5, an emergency situation is any one (1) of the following:
 - a. An extraordinary expense required by an order of a court of law having jurisdiction of the matter for which such extraordinary expense has been occasioned.
 - b. An extraordinary expense necessary to repair or maintain the Development, or any part of it that the Association is responsible to maintain, when a threat to personal safety within the Development is discovered.
 - c. An extraordinary expense necessary to repair or maintain the Development, or any portion thereof that the Association is responsible to maintain, which could not have been reasonably foreseen by the Board in preparing and distributing a Base and/or a Cost Center Budget for the immediately preceding Fiscal Year.

- (1) Provided that before the imposition or collection of any Assessment that is to be levied under the provisions of this Subsection 7.5G.1.c.(1), the Board must pass a resolution which shall contain written findings as to the necessity of any such extraordinary expense and why such extraordinary expense was not or could not have been reasonably foreseen in the Budget process for the preceding Fiscal Year.
- (2) The Board shall then distribute such resolution to all of the Members with the notice of the Regular Assessment.

G. The Association shall provide notice by first-class mail to the affected Members of any increase in a Regular Assessment or any portion thereof, not less than thirty (30) nor more than sixty (60) days before the due date of such increased Regular Assessment or any portion thereof, as the case may be.

7.6 RESERVE FUNDS.

- A. Each Regular Assessment shall include a portion for the Reserve Funds.
- B. The Reserve Funds shall be deposited in a separate account and the signatures of at least two (2) of the following persons shall be required for the withdrawal of such Reserve Funds:
 1. In the case of that portion of the Reserve Funds that are designated to be used for a Driveway Cost Center Major Component, the Driveway Cost Center Director who represents the Driveway Cost Center in which such Major Component is located and one (1) officer of the Association shall be required to withdraw money from the such Driveway Cost Center Reserve Funds.
 2. In the case of that portion of the Reserve Funds that are designated to be used for Base Budget Major Components, two (2) Membership Directors or one (1) officer of the Association, who is not a Membership Director, and a Membership Director, shall be required to withdraw money from such Reserve Funds.
- C. Except as provided for in the provisions of Subsections 7.6D. and E., below, Reserve Funds may not be expended for any purpose other than the management, improvement, repair, restoration, replacement, maintenance of, or litigation involving the management, improvement, repair, restoration, replacement or maintenance of, the Major Components for which they are reserved.
- D. Notwithstanding the provisions of Subsection 7.6C., above, the Membership Directors may authorize the temporary transfer of money from the Reserve Account that is not part of a Driveway Cost Center's Reserve Funds, to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, Recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to the Reserve Account.
- E. Notwithstanding the provisions of Subsection 7.6C., above, a Driveway Cost Center Director may authorize the temporary transfer of money from the Reserve Account of the Driveway Cost Center which he or she, as the case may be, represents, to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, that has been recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to such Driveway Cost Center Reserve Account

F. Any such transferred funds shall be restored to the respective Reserve Funds within one (1) year of the date of the initial transfer, provided that the Board, on the making of a finding supported by documentation that a temporary delay is in the best interest of the Development, may provisionally delay the restoration of such transferred funds.

G. The Board shall exercise prudent fiscal management in maintaining the integrity of the Reserve Account and shall, if necessary, levy a Special Assessment to recover the full amount of any transferred Reserve Funds within the time limits required.

1. Any such Special Assessment shall be subject to the Assessment increase restrictions set forth in the provisions of Subsection 7.7C, 7.7D, and 7.7E, of Section 7.7 of the Declaration, which is entitled, "**SPECIAL ASSESSMENTS – PURPOSE OF AND PROCEDURE FOR LEVYING,**" as well as the applicable provisions of California Civil Code section 1366, or any compatible superseding statutes.
2. The Board may, at its discretion, extend the date the payment of any Special Assessment is due.
3. Any extension shall not prevent the Board from pursuing any legal remedy available to them for enforcing the collection of an unpaid Special Assessment as so extended.

H. If the Board elects to use Reserve Funds or to temporarily transfer money from the Reserve Account to pay for litigation, the Board shall, in the next available mailing to all of the Members in compliance with the provisions of California Corporations Code section 501b, or any compatible superseding statutes, notify the Members of such a decision and of the availability of an accounting of these expenses.

1. The Board shall make an accounting of any expenses related to such litigation on at least a quarterly basis.
2. Such accounting shall be made available for inspections by the Members at the Association's office.

I. As part of the Reserve Account Requirements, at least once every three (3) years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Components if the current replacement value of the Major Components is equal to or greater than one-half (1/2) of the respective Base or Driveway Cost Center Budget, which includes the Common Expenses for such Major Component, excluding the applicable Reserve Account for such period.

1. The study shall, at a minimum, include:
 - a. Identification of the Major Components as of the date of the study that have a remaining useful life of less than thirty (30) years;
 - b. Identification of the probable remaining useful life of each of those Major Components that have been identified in the provisions of Subsection 7.6I.1.a., above, as of the date of the study;
 - c. An estimate of the cost of repair, replacement, restoration or maintenance of each of the Major Components that have been identified in compliance with the provisions of Subsection 7.6I.1.a., above, during and at the end of its useful life; and
 - d. An estimate of the total annual contribution necessary to defray the costs to repair, replace, restore or maintain each of the Major Components identified in compliance with the provisions of Subsection 7.6I.1.a., above, during and at the end of their useful lives after subtracting the total of the Reserve Funds as of the date of the study.

2. The Board shall review such study annually and the appropriate Directors shall consider and implement the necessary adjustments to the Board's analysis of the Reserve Account Requirements as a result of such review.

7.7 SPECIAL ASSESSMENTS – PURPOSE OF AND PROCEDURE FOR LEVYING.

A. Subject to the conditions and restrictions provided for in the provisions of Subsections 7.7C. and 7.7D., below, the appropriate Directors may levy a Special Assessment if, for any particular Fiscal Year in which such appropriate Directors, in its sole discretion, determines that the for any reason, including, but not limited to, any unanticipated delinquencies in the collection of Assessments, the costs of necessary and unforeseen construction, any unexpected repairs to or the placement of a Major Component, the Association's available funds are or will become inadequate to meet the estimated Common Expenses, including, but not limited to, the maintenance of appropriate Reserve Funds.

1. If the appropriate Directors determine the amount necessary to meet such short-fall and if the amount is approved by a majority vote of such appropriate directors, it shall become a Special Assessment.
2. The appropriate Directors, in their sole discretion, may levy such entire Special Assessment immediately or in installments over a period of time such appropriate Directors considers reasonable.
3. Unless the Association is exempt from federal or state income taxes, including, without limitation, any exemption under the provisions of Internal Revenue Code section 528 and Revenue and Taxation Code section 23701t, or any compatible superseding codes, the appropriate Directors shall take such steps as may be reasonably necessary to prevent any such Special Assessment from being included in the Association's income for federal and state income tax purposes, including, if necessary, depositing the funds received from any such Special Assessment in a segregate account, not commingling such funds with any other funds of the Association and using such funds solely for the purpose for which they were levied.

B. Notwithstanding any other provision in the Governing Documents, except for the conditions and restrictions in the provisions of Subsection 7.7D., below, the Membership Directors may not levy any Special Assessment that pertains to the Common Expenses, which have been established for the management, construction, maintenance, reparation, improvement, and/or replacement of the Base Budget items that, under the provisions of Subsection 7.7A., above, either by itself or in the aggregate with other similar Special Assessments levied for the same Fiscal Year, would be in excess of five percent (5%) of such Common Expenses for such Fiscal Year, without the approval of a majority of those Members who are entitled to vote, at a Membership Meeting where, for the purposes of the provisions of this Subsection 7.7B., a quorum is fifty percent (50%) of the Members who are entitled to vote and are present, either in person or by proxy.

C. Notwithstanding any other provision in the Governing Documents, except for the conditions and restrictions in the provisions of Subsection 7.7 D., below, a Driveway Cost Center Director may not levy any Special Assessment that pertains to the Common Expenses, which have been established for the management, construction, maintenance, reparation. Improvement, and/or replacement of the Driveway Cost Center Budget items for the Driveway Cost Center, which he or she, as the case may be, represents, that, under the provisions of Subsection 7.7A., above, either by itself or in the aggregate with other similar Special Assessments levied for the same Fiscal Year, would be in excess of five percent (5%) of such Common Expenses for such Fiscal Year without the approval of a majority of those Members who are Driveway Cost Center Owners of Lots that are located in the

Driveway Cost Center that will be affected by such increase and are entitled to vote at a Membership Meeting. where, for the purposes of the provisions of this Subsection 7.5C., a quorum is fifty percent (50%) of the Members who are Driveway Cost Center Owners of Lots that are located in the Driveway Cost Center that will be affected by such increase , who are entitled to vote and are present, either in person or by proxy.

D. The restrictions contained in the provisions of Subsections 7.7B. and C., above, shall not apply in the following circumstances:

1. An Assessment levied against a particular Lot to reimburse the Association for any costs incurred in bringing the Owner and/or the Lot into compliance with the provisions of the Governing Documents.
2. Increases that are necessary for emergency situations.
 - a. For the purposes of the provisions of this Section 7.7, an emergency situation is one (1) of the following:
 - (1) An extraordinary expense required by an order of a court of law having jurisdiction of the matter for which such extraordinary expense is occasioned.
 - (2). An extraordinary expense that is necessary to manage, construct, improve, repair, restore, replace and/or maintain any portion of the Development that the Association is responsible for, when a threat to personal safety is discovered.
 - (3) An extraordinary expense that is necessary to manage, construct, improve, repair, restore, replace and/or maintain any portion of the Development that the Association is responsible for, which could not have been reasonably foreseen by the appropriate Directors in preparing and distributing a Base and/or Driveway Cost Center Budget, whichever is applicable, for the current Fiscal Year
 - (a) Provided that, before the imposition or collection of any such Special Assessments under the provisions of Subsection 7.7D.2.a.(3), above, the appropriate Directors must pass a resolution containing written findings as to the necessity of such an extraordinary expense as well as why such an extraordinary expense was not or could not have been reasonably foreseen in the budget process for the current Fiscal Year.
 - (b) The Board shall then distribute a copy of such resolution to all of the appropriate Members with the notice of such Special Assessment.
3. Any Special Assessment levied to restore Reserve Funds under the provisions of California Civil Code section 1365.5(c), or any compatible superseding statutes.

7.8 ALLOCATION OF REGULAR AND SPECIAL ASSESSMENTS.

A. Subject to the provisions of Section 7.2 of the Declaration, entitled, "**LIMITED EXEMPTION FROM ASSESSMENT DURING CONSTRUCTION,**" the Regular and Special Assessments levied by the Board shall be allocated among the Lots as follows:

1. Except as otherwise provided for herein, an Assessment shall be allocated among each Lot subject to the Assessment by dividing the total amount of the Assessments by the total number of Lots subject to such Assessment.

B. Special Assessments levied against a particular Lot or an Owner, as the case may be, to reimburse the Association for costs incurred in bringing such Owner and/or Lot into compliance with the provisions of the Governing Documents shall not be subject to the allocation provisions that are contained in Subsection 7.8A.1, above.

7.9 ASSESSMENT PERIOD.

A. Unless the Board determines otherwise, the Association's Fiscal Year shall be a calendar year and the Regular Assessment period shall commence on January 1 of each year and shall terminate on December 31 of that year, provided that the first (1st) Regular Assessment period for all of the Lots in the Development shall commence on the first (1st) day of the calendar month following the date of the closing of the first (1st) conveyance of a Lot in the Development to an Owner other than the Declarants and shall terminate on December 31 of that year. Each Regular Assessment shall be payable in equal monthly installments unless the Board adopts some other method for payment. The first (1st) Regular Assessment and all Special Assessments shall be adjusted according to the number of months remaining in the Fiscal Year and shall be payable in equal monthly installments unless the Board adopts some other method of payment.

7.10 MAINTENANCE OF ASSESSMENT FUNDS.

A. All sums received or collected by the Association from Regular and/or Special Assessments, together with any interest or late charges thereon, shall be promptly deposited in one (1) or more federally insured checking, savings or money market accounts in a bank or other financial institution, which has been selected by the Board.

B. The Board and such officers or agents of the Association as the Board may designate shall have exclusive control of said account(s) and shall be responsible at all times to the Owners for the maintenance of accurate records thereof.

C. Except as provided for in the provisions of this Section 7.10, the proceeds of any portion of a Regular and/or Special Assessment shall be used only for the purpose for which such portion was levied and such funds shall be received and held in trust by the Association for such purpose.

D. Notwithstanding the provisions of Subsections 7.10A. through 7.10C., inclusive, above, and subject to any other applicable provisions of the Governing Documents, the appropriate Directors, in their sole discretion, may make appropriate adjustments among the various line items in the Base and/or Condominium Cost Center Budget, whichever is appropriate, if such appropriate Directors determine that it is prudent and in the best interest of the Association and its Members to make such adjustments.

E. To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one (1) or more accounts and need not be deposited in separate accounts so long as the separate accounting records described below are scrupulously maintained.

1. For the purposes of accounting, but without requiring any physical segregation of the funds, the Association shall keep a separate accounting of all monies received by it in payment of each Regular and/or Special Assessment and of all disbursements made therefrom for the following elements:
 - a. All funds received and disbursed in accordance with the provisions of the Base Budget; and
 - b. All funds received and disbursed in accordance with the provisions of a Driveway Cost Center Budget.

7.11 NOTICE OF INCREASE IN ASSESSMENTS.

A. The Board shall provide notice by first-class mail to all of the Owners who are subject to any such Assessments, of any increase in a Regular or Special Assessment, not less than thirty (30) nor more than sixty (60) days prior to any such increased Assessments or installments thereof, as the case may be, becoming due.

7.12 DUE DATE, LATE CHARGES AND INTEREST.

A. At least ten (10) days prior to the commencement of any Regular or Special Assessment, the Board shall give each Owner who is subject to such Assessment, a written notice of the amount of the Assessment and that is about to commence and the due date, or due dates if paid installments, as well as the amount of any such installment. Such notice need only be given once for any Assessment that is to be paid in installments. Unless the Board specifies otherwise, the due date of any installment shall be the first (1st) day of each month.

B. Any Assessment payment, including any installment payment, shall become delinquent if payment is not received by the Association within fifteen (15) days after its due date and there shall be a late charge of ten percent (10%) or ten dollars (\$10.00), whichever is greater. A late charge may not be imposed more than once on any delinquent payment, but it shall not eliminate or supersede any charges imposed on prior delinquent payments.

C. Interest shall also accrue on any delinquent payment at the rate of twelve percent (12%) per annum. Interest shall commence thirty (30) days after an Assessment becomes due.

7.13 DELIVERY OF REQUESTED ITEMS.

A. Within ten (10) days of the mailing or delivery to the Board of a written request by an Owner to do so, the Board shall provide such requesting Owner with the following items and information:

1. Copies of the Governing Documents;
2. Copies of all the current documents that have been distributed in accordance with the provisions of Section 5.13 of the Declaration, entitled **"PREPARATION AND DISTRIBUTION OF FINANCIAL STATEMENTS, REPORTS AND COPIES OF THE GOVERNING DOCUMENTS;"**
3. Whether, to the knowledge of the Association, the Owner or the Owner's Lots is/are in Violation of a Provision of the Governing Documents;
4. The amount of Regular and Special Assessments, including installment payments that have been paid by the Owner during the Fiscal Year the request is received;

5. A statement in writing from an authorized representative of the Board showing the amount of the Association's current Regular and Special Assessments and/or fees, any Assessments levied against the Owner and/or the Owner's Lot that are unpaid on the date of such statement and any monetary fines or penalties that have been levied against the Owner and are unpaid as of the date of the statement;
6. A copy or summary of any notice that has been previously sent to the Owner pursuant to the provisions of California Civil Code section 1363(h), or any compatible superseding statutes, which sets forth an alleged Violation of a Provision of the Governing Documents, that remains unresolved at the time of the request. Any such notice will not be deemed a waiver of the Board's right to enforce any provision of the Governing Documents against the Owner or the prospective purchaser of the Owner's Lot with respect to any such Violation of a Provision of the Governing Documents;
7. A copy of any preliminary list of defects that has been provided to the Members in compliance with the provisions of California Civil Code section 1375, or any compatible superseding statutes, unless the parties later enter into a settlement agreement or otherwise resolve the matter and the Association complies with the requirements of the provisions of California Civil Code section 1375.1, or any compatible superseding statutes. Such list of defects must include a statement that a final determination has not been made as of the date of such statement as to whether such list of defects is accurate and complete;
8. A copy of any information that has been provided to the Owner in compliance with the provisions of Subsection 5.16N. of the Declaration, above; and
9. A notice of any change in the Association's current Regular and Special Assessments as well as its fees that have been approved by the Board, but have not yet become due and payable.

B. The Board may charge the requesting Owner a fee to recover its reasonable costs of preparing and delivering the requested items and information. Any prospective purchaser or Mortgagee of the requesting Owner's Lot or Lots, as the case may be, may rely on the information that is contained in any statement provided to a requesting Owner under the provisions of this Section 7.13, provided that reliance may not extend to any Violation of a Provision of the Governing Documents of which the Board does not have actual knowledge at the time such items and information was provided to the requesting Owner.

7.14 ASSOCIATION'S POWER TO ESTABLISH AS SESSMENT LIEN.

A. The Board has the right to collect and enforce Assessments. In addition to the enforcement powers described in the provisions of Section 5.6 of the Declaration, entitled, "**RIGHT TO IMPOSE SANCTIONS FOR A VIOLATION OF A PROVISION OF THE GOVERNING DOCUMENTS,**" and subject to the restrictions on the enforcement of monetary penalties described in the provisions of Section 7.7 of the Declaration, entitled, "**SPECIAL ASSESSMENTS – PURPOSE OF AND PROCEDURE FOR LEVYING,**" the Board may enforce any delinquent Assessments, including any delinquent installments of such Assessments, by suing the Owner directly on the debt established by any such delinquency, or by establishing a lien against such Owner's Lot as provided for in the provisions of Section 7.15 of the Declaration, entitled, "**CREATION OF ASSESSMENT LIEN,**" and foreclosing such lien through either judicial proceedings or nonjudicial proceedings under a power of sale as provided for in the provisions of Section 7.16 of the Declaration, entitled,

“FORECLOSURE UNDER ASSESSMENT LIEN.” The Board may commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien against the Owner’s Lot for any such delinquency. In any action instituted by the Board to collect a delinquent Assessment together with any accompanying late charges or interest, as the case may be, the prevailing party shall be entitled to recover their costs and reasonable attorney’s fees.

7.15 CREATION OF ASSESSMENT LIEN.

A. Subject to the provisions of Section 7.7 of the Declaration, entitled **“SPECIAL ASSESSMENTS – PURPOSE OF AND PROCEDURE FOR LEVYING,”** the Board may impose a lien against the Owner’s Lot for the amount of any delinquent Assessment or Assessments as well as any installments thereof, late charges, interest plus any costs of collection including attorney’s fees, by taking the following steps:

1. The Board shall notify the delinquent Owner in writing by certified mail, of the fee and penalty procedures of the Association and shall provide an itemized statement of the charges owed by such Owner, including, but not limited to, items on such statement which indicate the principal owed, any late charges together with the method of calculation, any attorney fees and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection.
2. After compliance with the notice requirements that are provided for in the provisions of Subsection 7.15A.1., above, the Board may impose a lien against the delinquent Owner’s Lot in the amount of the delinquent Assessment(s) and/or delinquent installment, as the case may be, plus any costs of collection, late charges and/or interest by Recording a notice of delinquent Assessment (“Notice of Delinquent Assessment”) with the San Luis Obispo County Recorder. Such Notice of Delinquent Assessment shall state the amount of any delinquent Assessment(s) and other sums that have been imposed in accordance with the provisions of California Civil Code section 1366 or any compatible superseding statute, a legal description of the Lot against which such delinquent Assessment(s) together with any other sums have been levied, the name of the Owner of such Lot and, if the lien is to be enforced by a nonjudicial foreclosure, the name and address of the trustee authorized by the Board to enforce such lien by nonjudicial foreclosure and sale. Such Notice of Delinquent Assessment shall be signed by any officer of the Association or any employee or agent of the Association who has been authorized to do so by the Board, and a copy mailed in the manner required by the provisions of Civil Code section 2924b, or any compatible superseding statutes, to all of the Record Owner(s) of such Lot, no later than ten (10) days after the Recording of the Notice of Delinquent Assessment.

B. Any payments made on a delinquent Assessment(s) shall be applied first (1st) to the principal owed and only after the principal owed is paid in full shall payments be applied to any interest or collection costs. On payment in full of the sums specified in a Notice of Delinquent Assessment, the Association shall cause to be Recorded with the County Recorder release of the lien that was created by such Notice of Delinquent Assessment.

7.16 FORECLOSURE UNDER ASSESSMENT LIEN.

A. After the expiration of thirty (30) days following the Recording of the Notice of Delinquent Assessment, the Board may enforce any lien that was created by such Recording by the

filing of an action in any court of competent jurisdiction for judicial foreclosure or, in the alternative, by nonjudicial foreclosure as provided for in the provisions of California Civil Code sections 2924, 2924b, 2924f, 2924g, 2924h and 2924j or any compatible superseding statutes. Any foreclosure sale shall be conducted by the trustee named in the Notice of Delinquent Assessment or by a trustee substituted in accordance with the provisions of California Civil Code section 2934a. The Board may bid at the sale and, if it has been the successful bidder, may hold, lease, mortgage or convey the acquired Lot. If the default is cured before completing a judicial foreclosure, or prior to the sale that would result from such a foreclosure, including the payment of all costs and expenses incurred by the Board, the Board shall Record a notice of satisfaction and release of lien and, on receipt of a written request by the current Owner, a notice of rescission of the declaration of default and demand for sale.

7.17 TRANSFER OF A LOT BY SALE OR FORECLOSURE.

A. The ensuing rules shall govern the Association's rights to enforce its Assessment collection remedies following the sale or foreclosure of a Lot.

1. Except as provided for in the provisions of Section 12.2 of the Declaration, entitled, "**SUBORDINATION**," the sale or transfer of any Lot shall not affect any Assessment lien that was duly Recorded with respect to that Lot prior to such sale or transfer and the Association can continue to foreclose its lien in spite of any change in ownership.
2. The Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest and costs of collection incurred before the sale or transfer of a Lot under a foreclosure sale or exercise of a power of sale by the holder of a prior encumbrance, but not by a deed or assignment-in-lieu of foreclosure. A "prior encumbrance" means any Mortgage or lien Recorded prior to the Association's Assessment lien.
3. Except as provided for in the provisions of Section 12.2 of the Declaration, entitled, "**SUBORDINATION**," no sale or transfer of the fee title of all or any portion thereof, of a Lot as the result of a foreclosure, an exercise of a power of sale or otherwise, shall relieve any new Owner of such Lot from the liability for any Assessments that are thereafter levied or from the lien thereof.
4. Any Assessments, late charges, interest and associated costs of collection that are lost as a result of a sale or transfer covered by the provisions of this Section 7.17 shall be deemed to be a Common Expense collectible from the Owners of all of the Lots including any person or persons who acquire(s) such Lot and its, his, her or their heirs, successors and assigns, as the case may be.
5. No sale or transfer of a Lot as the result of a foreclosure, an exercise of a power of sale, or otherwise that is occasioned by a senior encumbrance or lien, shall affect the Association's right to maintain an action against the foreclosed previous Owner of the Lot personally, to collect the delinquent Assessments, late charges, interest and associated costs of collection incurred by said Owner prior to any sale or transfer resulting from such actions.

6. The provisions of Section 7.16 of the Declaration, entitled, "**FORECLOSURE UNDER ASSESSMENT LIEN**," and this Section 7.17 are intended to reflect the California law concerning community association Assessment lien priority in effect as of the effective date of the Declaration. In the event that the applicable California laws are revised, the provisions of this Section 7.17 and the above referenced Section 7.16 may be modified by an action of the Board to conform to the new statutory provisions concerning this subject matter without submitting same to a vote of the Owners.

ARTICLE VIII INSURANCE

8.1 LIABILITY INSURANCE.

A. The Board shall obtain and maintain a comprehensive public liability insurance policy insuring the Association, any manager, the Declarants and the Owners and occupants of Lots as well as their respective family members, guests and Invitees together with the agents and employees of each, against any liability incident to the ownership or use of the Common Area or any other Association-owned or maintained real or personal property and including, if obtainable, a cross liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than two million dollars (\$2,000,000.00), covering all claims for debt, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to Developments similar in construction, location and use.

8.2 FIRE AND CASUALTY INSURANCE.

A. The Board shall obtain and maintain a master or blanket policy of fire and casualty insurance coverage for the full insurable value of all of the Improvements within the Common Area, if any, provided that there may be lower dollar limits for specified items as is customarily provided in property insurance policies of this nature. If available, the policy shall contain the following endorsements or their equivalent: agreed amount, inflation guard, increased cost of construction, contingent liability from operation of building laws, extended coverage, theft, vandalism, malicious mischief, a special form endorsement, and a determinable cash adjustment clause or similar clause to permit cash settlement covering the full value of the Improvements in case of partial destruction and a decision not to rebuild or replace, and such other endorsements as the Board, in its discretion, shall elect. The policy shall name as insured, the Association, the Owners and the Declarants, as long as the Declarants are the Owners of any Lot, and all Mortgagees as their respective interests may appear and may contain a loss payable endorsement in favor of the Trustee described in the provisions of Section 8.3 of the Declaration, entitled, "**PROVISION APPOINTING TRUSTEE**."

B. The policy shall be primary and noncontributing with any other policy of insurance covering the same loss.

C. The Association shall not carry an endorsement without the approval of a majority of the total voting power of the Members. If the Members elect to require the Association to obtain an earthquake endorsement, the endorsement may be subsequently cancelled on vote of a majority of the total voting power of the Members. If cancelled, the Board shall make reasonable efforts to notify the Members of the cancellation at least thirty (30) days before the effective date of any such cancellation.

D. Subject to any restrictions imposed by any Mortgagees, the Board shall have the power and right to deviate from the insurance requirements contained in the provisions of this Section 8.2 in any manner that the Board, in its sole discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in the provisions of this Section 8.2, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefore at least thirty (30) days before the effective date of the reduction.

E. The Association, the Board and officers of the Association shall have no liability to any Owner or Mortgagee if, after a good faith effort:

1. The Board is unable to obtain any insurance required hereunder because the insurance is no longer available;
2. If available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or
3. The Members fail to approve any Assessment increase needed to fund the insurance premiums.

8.3 PROVISION APPOINTING TRUSTEE.

A. All fire and casualty insurance proceeds payable under the provisions of Section 8.2 entitled, "**FIRE AND CASUALTY INSURANCE**," for losses to any real and/or personal property, may be paid to a Trustee to be held and expended for the benefit of the Association, the Owners, any Mortgagees and others, as their respective interests shall appear. The Trustee shall be a commercial bank or other financial institution, with trust powers in the County that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Board shall have the duty to contract for such work as provided for in the provisions of the Governing Documents.

8.4 PROVISION TO ADJUST LOSSES.

A. The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute any releases in favor of an insurer.

B. Each and every Owner, by acceptance of a deed to a Lot, irrevocably appoints the Board as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto, and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

8.5 DIRECTOR AND OFFICER LIABILITY INSURANCE.

A. To the extent insurance is available, the Board shall purchase and maintain insurance in an amount up to one million dollars (\$1,000,000.00), on behalf of any Director, officer or member of a committee of the Association, for the purposes of the provisions of this Section 8.5, collectively hereinafter referred to as the "Agents," against any liability asserted against or incurred by the Agents in such capacity or arising out of the Agents' status as such, regardless of whether the Association would have the power to indemnify the Agents against such liability under applicable law.

8.6 WORKER'S COMPENSATION, DEMOLITION AND OTHER ASSOCIATION INSURANCE.

A. The Board may purchase and maintain demolition insurance in adequate amounts to cover the razing, in case of total or partial destruction, of the Major Components and a decision not to rebuild, as well as a policy of flood insurance.

B. The Board shall also purchase and maintain worker's compensation insurance, to the extent it is required by law, for all employees of insured contractors of the Association.

C. The Board shall also purchase and maintain fidelity bonds and/or insurance, in an amount not less than one hundred and fifty percent (150%) of each year's estimated Common Expenses, which shall contain an endorsement that covers any person who may serve without compensation, if reasonably practical, sufficient to meet the requirements of any Institutional First Mortgagee.

D. The Board shall also purchase and maintain such insurance on personal property owned by the Association, together with any other insurance, that it deems necessary or, where practical, that is required by any Institutional First Mortgagee.

8.7 OWNER'S LIABILITY INSURANCE.

A. An Owner may carry personal liability and Property damage insurance with respect to its, his, her or their Lot that it, he, she or they desire(s). However, any such policy shall include a waiver of subrogation clause acceptable to the Board and to any Eligible Mortgage Holder that encumbers such Owner's Lot.

8.8 INSURANCE REVIEW AND NOTICE.

A. Notwithstanding anything herein to the contrary, but subject to the provisions of Sections 5.12 and 5.13 of the Declaration, entitled, "SECURING INSURANCE COVERAGE" and "PREPARATION AND DISTRIBUTION OF FINANCIAL STATEMENTS, REPORTS AND COPIES OF THE GOVERNING DOCUMENTS," respectively, the Board shall periodically, but in no event less than every three (3) years, review all of the insurance coverage maintained by the Association and make such adjustments to the policies' terms and conditions as the Board may consider to be in the best interests of the Association. The review shall include an appraisal by a qualified appraiser of the current replacement costs of all of the covered property under the Association's policies, unless the Board is satisfied that the current dollar limit of the property policies, coupled with the amount of the actual Reserve Funds on hand, is equal to or greater than said current replacement costs.

ARTICLE IX

DAMAGE OR DESTRUCTION OF A MAJOR COMPONENT

9.1 REPAIR, RECONSTRUCTION OR REPLACEMENT OF DAMAGE TO A MAJOR COMPONENT.

A. Subject to the provisions of Section 9.5 of the Declaration, entitled "MINOR REPAIR AND RECONSTRUCTION" and Subsections 9.1A.1. through 9.1A.2a., inclusive, below, if the available proceeds of any insurance carried pursuant to the provisions of ARTICLE VIII of the Declaration, entitled, "INSURANCE," are less than eighty-five (85%) of the cost of the needed repair, reconstruction or replacement of a damaged Major Component, such Major Component shall be promptly repaired, reconstructed or replaced, as the case may be, unless one (1) of the following is to occur:

1. If the damaged Major Component is not part of a Driveway Cost Center and within ninety (90) days from the date of such damage, the Members then holding at least seventy-five percent (75%) of the total voting power of each voting class of the Members are present and entitled to vote, in person or by proxy, at a duly constituted Members meeting, determine that such repairs, reconstruction or replacement, whichever is applicable, shall not take place.
 - a. If such a Members meeting is called, the Board shall solicit and obtain bids from at least two (2) reputable contractors to repair, reconstruct or replace, whichever is applicable, the damaged Major Component in accordance with the most current As-Built Plans and, prior to any vote being taken, shall present this information to the Members who are present at such Members meeting.
2. If the damaged Major Component is part of a Driveway Cost Center and within ninety (90) days from the date of such damage, the Driveway Cost Center Owners whose Lots are located within such Driveway Cost Center and who then hold at least seventy-five percent (75%) of the total voting power of each voting class of such Driveway Cost Center Owners, who are present and entitled to vote, in person or by proxy, at a duly constituted Members meeting, determine that such repairs, reconstruction or replacement, whichever is applicable, shall not take place.
 - a. If such a Members meeting is called, the Board shall solicit and obtain bids from at least two (2) reputable contractors to repair, reconstruct or replace, whichever is applicable, the damaged Major Component in accordance with the most current As-Built Plans and, prior to any vote being taken, shall present this information to the appropriate Driveway Cost Center Owners who are present at such Members meeting.

B. If any repair, reconstruction and/or replacement is to take place, not later than one hundred and twenty (120) days from the date of such damage the Board shall execute, acknowledge and Record a certificate in the office of the County Recorder, which declares the intention to so repair, reconstruct or replace, as the case may be.

9.2 APPORTIONMENT OF ASSESSMENTS.

A. If there is a determination to repair, reconstruct and/or replace any damaged Major Component, pursuant to the provisions of Section 9.1 of the Declaration, entitled, "**REPAIR, RECONSTRUCTION OR REPLACEMENT OF DAMAGE TO A MAJOR COMPONENT,**" each Driveway Cost Center Owner and/or Member, whichever is applicable, shall be obligated to contribute its, his, her or their appropriate proportionate share of the cost of such repair, reconstruction and/or replacement that is not covered by the available insurance proceeds.

B. Therefore, if a Special Assessment is levied in compliance with the provisions of Section 7.7 of the Declaration, entitled "**SPECIAL ASSESSMENTS – PURPOSE AND PROCEDURE FOR LEVYING,**" for the cost of any such repairing, reconstructing and/or replacing of:

1. A Major Component that is not part of a Driveway Cost Center, such appropriate proportionate share shall be allocated among each Lot by dividing the total amount of such Special Assessment by the total number of Lots;

2. A Major Component that is part of a Driveway Cost Center, such appropriate proportionate share shall be allocated among each Lot that is located within such Driveway Cost Center by dividing the total amount of such Special Assessment by the total number of such lots.

9.3 CONTRACTS FOR THE REPAIRING, RECONSTRUCTION OR REPLACING OF A DAMAGED MAJOR COMPONENT.

A. If a damaged Major Component is to be repaired, reconstructed and/or replaced, the Board or its authorized representatives shall, after obtaining bids from at least two (2) reputable contractors as required in the provisions of Section 9.1 of the Declaration, entitled, "**REPAIR, RECONSTRUCTION OR REPLACEMENT OF DAMAGE TO A MAJOR COMPONENT,**" award the repair, reconstruction and/or replacement work, whichever is applicable, to the lowest bidder who has otherwise met the requirements, set forth by the Board in their request for bids.

B. The Board shall have the authority to enter into a written contract with the selected contractor for such repair, reconstruction and/or replacement and any insurance proceeds, which have been specifically allocated to such repair, reconstruction and/or replacement, shall be disbursed to the selected contractor according to the terms of the above referenced written contract.

C. It shall be the obligation of the Board to take all of the steps necessary to assure the commencement and completion at the earliest possible date of any authorized repair, reconstruction and/or replacement.

9.4 REPAIRING, RECONSTRUCTION OR REPLACEMENT NOT AUTHORIZED.

A. Subject to the provisions of Section 9.5 of the Declaration, entitled "**MINOR REPAIR AND RECONSTRUCTION,**" if the Board and/or seventy-five percent (75%) of the voting power of the Members determine not to repair or reconstruct a Major Component that is not part of a Driveway Cost Center, then, subject to the rights of any Mortgagees of the Lots, as set forth in the provisions of Section 12.5 of the Declaration, entitled, "**PRIORITY IN DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS,**" any insurance proceeds then available for such repairing, reconstruction or replacement shall be distributed to each Owner and/or their respective Mortgagees, as applicable, according to the relative Fair Market Values of its, his, her or their Lot.

1. Such Fair Market Value shall be determined as of the date that is immediately prior to the date that such Major Component was damaged or destroyed, as the case may be.

B. Subject to the provisions of Section 9.5 of the Declaration, entitled "**MINOR REPAIR AND RECONSTRUCTION,**" if the Board and/or seventy-five percent (75 %) of the voting power of a Driveway Cost Center's Owners determine not to repair or reconstruct, as the case may be, a damaged or destroyed Major Component that is located in such Driveway Cost Center, then, subject to the rights of any Mortgagees of such Lots, as set forth in the provisions of Section 12.5 of the Declaration, which is entitled, "**PRIORITY IN DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS,**" any insurance proceeds then available for such repairing, reconstruction or replacement shall be distributed to each such Driveway Cost Center Owner and/or their respective Mortgagees, as applicable, according to the relative Fair Market Values of its, his, her or their Lot.

1. Such Fair Market Value shall be determined as of the date that is immediately prior to the date that such Major Component was damaged or destroyed, as the case may be.

9.5 MINOR REPAIR AND RECONSTRUCTION.

A. Notwithstanding any other provisions of the Governing Documents to the contrary, the Board shall have the duty to repair, reconstruct or replace damaged Major Components, without the consent of the Owners and irrespective of the amount of available insurance proceeds, in all instances of damage and/or destruction, where the estimated cost of repair, reconstruction or replacement does not exceed twenty thousand dollars (\$20,000.00).

B. The Board may levy a Special Assessment for the cost of repairing, reconstructing or replacing such damaged Major Components to the extent insurance proceeds are unavailable. Any such Special Assessment is to be levied as described in the provisions of Section 9.2 of the Declaration, entitled, "APPORTIONMENT OF ASSESSMENTS," and may be done without the consent or approval of the affected Owners.

ARTICLE X DAMAGE OR DESTRUCTION OF A RESIDENCE

10.1 DAMAGE OR DESTRUCTION OF A RESIDENCE.

A. If all or any portion of any Residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of the Lot on which such Residence is located to rebuild, repair or reconstruct such Residence in a manner that will restore it substantially to its appearance and condition immediately prior to the casualty.

B. Any Owner who has suffered such damage shall apply to the Architectural Committee for approval of the plans for the rebuilding, reconstructing or repairing of its, his, her or their Residence.

1. Application for such approval shall be made in writing to the Architectural Committee together with the submission of a full and complete set of plans, specifications, working drawings and elevations showing the proposed rebuilding, reconstructing or repairing, as the case may be.
2. The Architectural Committee shall grant such approval only if the design proposed by the submitting Owner would result in a finished Residence that will be in harmony with the exterior design of other Residences within the Property.

C. The Owner or Owners of any damaged Residence(s) and the Architectural Committee shall be obligated to proceed with all due diligence hereunder to discharge their respective obligations.

D. Unless a waiver or modification of these time requirements is obtained from the Architectural Committee in accordance with the provisions of Section 13.5 of the Declaration, entitled, "VARIANCES," the Owner(s) shall commence reconstruction or removal of the damaged or destroyed structure within six (6) months after the damage occurs and complete reconstruction within eighteen (18) months after such damage occurs.

ARTICLE XI CONDEMNATION

11.1 CONDEMNATION SALE OF ALL OR ANY PORTION OF THE COMMON AREA.

A. If an action for condemnation of all or any portion of the Common Area that is not a part of a Driveway Cost Center is proposed or threatened by any governmental agency having the right of eminent domain, then, after the approval by the vote or written consent of at least seventy-five

percent (75%) of the voting power of the Owners as well as the written consent of seventy-five percent (75%) of their First Mortgage Holders, such Common Area or any portion of it, may be sold and conveyed to the condemning authority by the Board or its designees who will be acting as the attorney-in-fact of all of the Owners under an irrevocable power of attorney, which each Lot Owner by accepting a fee simple interest in a Lot grants to the Board, and which shall be coupled with the interest of all of the other Owners, at a price that is deemed fair and equitable by the Board.

1. On any sale occurring under the provisions of Subsection 11.1A., above, the proceeds of such sale shall be distributed equally to each Owner and their Mortgagees as their respective interests may appear.

B. If the seventy-five percent (75%) of the voting power of the Owners and their First Mortgagees do not consent to the above referenced condemnation sale and the condemning authority institutes judicial condemnation proceedings in a court of competent jurisdiction, such presiding court shall fix and determine the appropriate condemnation award as well the manner of its distribution.

11.2 SALE OF DRIVEWAY COST CENTER COMMON AREA BY UNANIMOUS CONSENT OR A TAKING BY AN ORDER OF THE COURT.

A. If an action for the condemnation of a Driveway Cost Center's Common Area, or any portion thereof, is proposed or threatened by any governmental agency having the right of eminent domain, then, on the unanimous written consent ("Common Area Sale Consent") of all of the Lot Owners and their Institutional First Mortgagees, whose Lots are located in the affected Driveway Cost Center, such Driveway Cost Center Common Area, or portion thereof, whichever is applicable, may be sold and conveyed to the condemning authority by the Board or its designees, who will be acting as the attorney-in-fact of all of such Lot Owners under an irrevocable power of attorney, which each Lot Owner by accepting a fee simple interest in a Lot grants to the Board, and which shall be coupled with the interest of all of the other Driveway Cost Center Owners who's Lots are located in the affected Driveway Cost Center, for a price deemed fair and equitable by the Board.

B. If the affected Lot Owners and/or their First Mortgagees do not consent to such sale of a Driveway Cost Center's Common Area or any portion thereof, as the case may be, and the condemning authority institutes judicial condemnation proceedings in a court of competent jurisdiction, such presiding court shall fix and determine the appropriate condemnation award as well as the manner of its distribution.

11.3 DISTRIBUTION OF THE PROCEEDS FROM A COMMON AREA SALE CONSENT.

A. The proceeds from a Common Area Sale Consent, after payment of all of the expenses relating to such sale, shall be distributed to all of the Owners and to their respective Mortgagees, in proportion to the Fair Market Value of such Driveway Cost Center Owner's Lot.

1. Such Fair Market Value shall be determined as of the date that is immediately prior to the date that such sale is consummated.

ARTICLE X11 PROTECTION OF MORTGAGEES

12.1 MORTGAGE PERMITTED.

A. Any Owner may encumber its, his, her or their Lot with a Mortgage.

12.2 SUBORDINATION.

A. Any lien created or claimed under the provisions of the Governing Documents is expressly made subject to and subordinate to the rights of any First Mortgage that encumbers all or a portion of the Development and that has been made in good faith and for value. No such lien shall in any way defeat, invalidate or impair the obligation or priority of such Mortgage unless the Mortgagee of such Mortgage expressly subordinates its interest, in writing, to such lien. If any Lot is encumbered by a First Mortgage that has been made in good faith and for value, the foreclosure of any lien created in accordance with the provisions of the Governing Documents for Assessments or any installments thereof, shall not operate to effect or impair such Mortgage. On the foreclosure of any such Mortgage, the liens for any Assessments or the installments thereof that have accrued up to the date such foreclosure is commenced, shall be subordinate to the lien of such Mortgage, with the foreclosure-purchaser taking title to the Lot free of any lien for Assessments or installments that have accrued up to the time of such foreclosure sale. In taking title to any such Lot the foreclosure-purchaser thereof shall be obligated to pay only those Assessments or other charges levied or assessed by the Association against such Lot and/or the Owner of same that became due or payable on or after such foreclosure-purchaser acquired title to such Lot. Any Assessment or other charges that are subsequently levied against such Lot and/or Owner, may include any previously unpaid Assessments, or portions thereof, that were levied against the foreclosed Lot, provided all of the Owners, including the foreclosure-purchaser and its, his, her or their successors and assigns, are required to pay their proportionate share as provided for in the provisions of Subsection 7.7A.

12.3 RESTRICTION ON CERTAIN MODIFICATIONS OF THE GOVERNING DOCUMENTS.

A. In addition to the requirements of the provisions of Section 14.1 of the Declaration, entitled, "**PROCESS TO AMEND OR REVOKE THE PROVISIONS OF THE DECLARATION,**" unless at least sixty-six and two-thirds percent (66 2/3%) Eligible Mortgage Holders who hold current First Mortgages that cover a Lot or at least sixty-six and two-thirds percent (66 2/3%) of the total voting power of the Members, other than the Declarants, have given their prior written approval, neither the Association nor the Owners shall be entitled to:

1. By act or omission, seek to abandon or terminate the Development, except for the abandonment provided for by statute in case of substantial loss to the Lots or the Common Area.
2. Change the method of determining the obligations, Assessments, dues or other charges that may be levied against an Owner and/or a Lot or to change the prorata interest or obligations of any Lot for purposes of levying Assessments and/or charges or allocating distributions of hazard insurance proceeds or condemnation awards.
3. Partition or subdivide any Lot.
4. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area.
 - a. The granting of easements for public utilities or for other public purposes as well as the reasonable benefit of a Lot or contiguous real property, consistent with the intended use of the Common Area, by the Association or the Owners, shall not be deemed to be a transfer within the meaning of this Subsection 12.3 A.4.

5. In the case of substantial loss, to use hazard insurance proceeds for any purpose other than to repair, reconstruct or replace a Major Component, the Common Area or any other Association property, except as provided for in the provisions of the Governing Documents or by law.
6. By act or omission to change, waive or abandon the provisions of the Declaration or the enforcement of any of them, pertaining to architectural design, control of the exterior appearance of structures within the Development or the maintenance of the Common Area.
7. To fail to maintain fire and/or extended coverage insurance on insurable Association property, including, but not limited to, any improvements thereon, on a current replacements cost basis in an amount not less than one hundred percent (100%) of the insurable value, based on current replacement cost.

12.4 MORTGAGEE'S RIGHT TO EXAMINE BOOKS AND RECORDS.

A. Institutional First Mortgagees shall have the right to examine the books and records of the Association and any Eligible Mortgage Holder shall have the right to require the submission of financial data concerning the Association including annual audit reports, Budgets and operating statements as furnished to the Owners.

12.5 PRIORITY IN DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS.

A. The provisions of Section 9.1 of the Declaration, entitled, "CONDEMNATION OF THE COMMON AREA AND/OR THE RESTRICTED USE COMMON DRIVEWAY COMMON AREA," notwithstanding, no Owner or any other party shall have priority over any right of an Institutional First Mortgagee of a Lot pursuant to the provisions of their Mortgage in the case of a distribution to the Owners of insurance proceeds or a condemnation award for losses occasioned by the taking of any portion of a Lot or the Common Area. Any provision in the Governing Documents to the contrary 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 First Mortgagees, naming the Mortgagees as their interests may appear.

12.6 STATUS OF AMENITIES.

A. All of the Common Area and the Major Components, as may be appropriate, shall be available for the use of the Owners.

B. All such Common Area and/or Major Components shall be owned by the Owners in undivided interests or by the Association, free of encumbrances except for any easements granted for public utilities or other public purposes consistent with the intended use of such Common Area and/or Major Components by the Owners or by the Association, as the case may be.

12.7 DEFAULT NOTICE REQUIREMENT.

A. If any Owner has committed a Violation of a Provision of the Governing Documents and such Violation of a Provision of the Governing Documents is not cured within sixty (60) days after a written notice of such Violation of the Provision of the Governing Documents to the responsible Owner, the Association shall give to any Eligible Mortgage Holder of such Owner notice of such default and of the fact that a sixty (60) day period after receipt of the above referenced notice has expired.

12.8 PAYMENT BY MORTGAGEES.

A. Mortgagees of Lots may, jointly or severally, pay taxes or any other charges which are in default and which may, or have become, a charge against the Common Area. Such Mortgagees may also pay any overdue premiums on insurance policies or secure new insurance coverage on the lapse of a policy that covers any property of the Association. Upon making any such payments, such Mortgagees shall be owed immediate reimbursement from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon request of any Mortgagee the Association shall execute and deliver to such Mortgagee a separate written agreement embodying the terms of the provisions of this Section 12.8.

12.9 LIEN NOT INVALIDATED.

A. No Violation of a Provision of the Governing Documents shall invalidate the lien of any Mortgage that has been made in good faith and for value. Notwithstanding the text in the preceding sentence in this Section 12.9, all of the covenants, conditions and restrictions contained in the Governing Documents shall be binding on any Owner whose title is derived through foreclosure sales, trustee's sale or otherwise .

12.10 MORTGAGEE NEED NOT CURE A VIOLATION OF A PROVISION OF THE GOVERNING DOCUMENTS.

A. Any Mortgagee who acquires title to a Lot by foreclosure, by deed in lieu of foreclosure or by assignment in lieu of foreclosure shall not be obligated to cure any Violation of a Provision of the Governing Documents that is non-curable or of a type that is not practical or feasible to cure.

12.11 STATUS OF LOAN TO FACILITATE RESALE.

A. Any First Mortgage given to secure a loan to facilitate the resale of a Lot after acquisition by foreclosure, by deed in lieu of foreclosure or by any 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 protection of Mortgages under the provisions of the Governing Documents.

12.12 RIGHT TO APPEAR AT MEETINGS.

A. Because of its, his, her or their, as the case may be, financial interest in the Development, any Mortgagee may appear, but cannot vote, at meetings of the Members as well as of the Board to draw attention to a Violation of a Provision of the Governing Documents that has not been corrected or that has been made the subject of remedial proceedings or a Special Assessment.

12.13 RIGHT TO FURNISH INFORMATION.

A. Any Mortgagee can furnish information to the Board concerning the status of its, his, her or their Mortgage.

12.14 RIGHT OF FIRST REFUSAL INAPPLICABLE TO MORTGAGE.

A. No right of first (1st) refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Lot shall be granted to the Association without the written consent of any subsequent Mortgagee of such Lot. Under any circumstances, a right of first (1st) refusal or option to purchase a Lot that may be granted to the Association or other person, firm or entity, shall not impair the rights of any First Mortgagee of such Lot to:

1. Foreclose or take title to a Lot pursuant to the remedies provided for in the provisions of the Mortgage;

2. Accept a deed or assignment in lieu of foreclosure in the event of default under the such Mortgage; or
3. Sell or lease a Lot acquired by the Mortgagee through a foreclosure or pending foreclosure, as the case may be, of its, his, her or their Mortgage.

12.15 NOTICES TO ELIGIBLE MORTGAGE HOLDERS.

A. An Eligible Mortgage Holder will be entitled to written notice of certain occurrences upon a request in writing to the Association from said Eligible Mortgage Holder identifying its, his, her or their name(s) and mailing address(es) together with the Lot number(s) or address(es) of the Lot or Lots encumbered by its, his, her or their Mortgage, asking that the Association provide it, him, her or them, as the case may be, with a notice of the occurrence of any of the following events:

1. Condemnation or casualty loss which affects a material portion of the Development or any Lot on which there is a Mortgage held by such Eligible Mortgage Holder;
2. Violation of a Provision of the Governing Documents and/or delinquency in the payment of an Assessment or charge which is owed by an Owner of a Lot subject to a Mortgage held by such Eligible Mortgage Holder that has remained uncured for a period of sixty (60) days;
3. Lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
4. Proposed action that would require the consent of a specified percentage of Eligible Mortgage Holders as delineated in this **ARTICLE X**.

B. The Association shall discharge its obligation to notify an Eligible Mortgage Holder by sending the written notices required herein to such requesting parties, at the addresses given on its, his, her or their current requests for any such notice, in the manner prescribed by the provisions of Section 15.10 of the Declaration, entitled, "NOTICES AND COMMUNICATION."

12.16 REQUIREMENTS OF THE VETERANS ADMINISTRATION.

A. So long as there is a Class B Membership pursuant to the provisions of Section 6.3 of the Declaration, entitled, "TWO-CLASS SYSTEM; WEIGHTED VOTES," the following actions require approval of the Veterans Administration if there are loans in the Development covered by Mortgages insured by them: annexation of additional properties, dedication, Mortgage or sale of Common Area, Special Assessments and amendment of the Declaration.

12.17 CONTROL IF MORTGAGEE PROTECTION CONFLICTS WITH OTHER PROVISIONS OF THE GOVERNING DOCUMENTS.

A. In the event of any conflict between any of the provisions of Sections 12.1 through 12.17, inclusive, of the Declaration and any other provisions of the Governing Documents, the provisions of Sections 12.1 through 12.17, inclusive, of the Declaration shall control.

ARTICLE XIII ARCHITECTURAL CONTROL

13.1 PROVISION FOR ARCHITECTURAL APPROVALS.

A. Except as to construction of Improvements in the Development by or at the direction of the Declarants, no Improvement of any kind shall be commenced, erected or maintained within the Development, nor shall any exterior addition, change or alteration be made to the exterior of any Residence until the plans and specifications showing the nature, color, kind, shape, height, including

front, side and rear elevations, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee as to quality of workmanship and materials, harmony of external design and location in relation to the surrounding structures, setback lines, topography and finish grade elevations. It is expressly understood and agreed that the Architectural Committee shall be entitled to apply both subjective and objective criteria when considering such submitted plans and specifications, so long as the Architectural Committee does so reasonably and in good faith.

B. Any such Improvements shall also be subject to review by the City's Architectural Review Commission. The applicant's submittal shall follow Community Development Department guidelines and include a site plan, general project statistics, grading and drainage plan, landscape development plan, material samples board and sectional drawings together with any other pertinent information.

13.2 APPOINTMENT AND MAKEUP OF ARCHITECTURAL COMMITTEE.

A. The Declarants shall appoint all of the original constituents of the Architectural Committee, which shall be not less than three (3) nor more than five (5) persons and any replacements for them. Said appointees do not have to be Members. The number of persons initially appointed shall constitute the number of authorized members of the Architectural Committee, unless they are increased or decreased by the vote or written consent of the holders of at least fifty-one percent (51%) of the voting rights of each class of Members. The initial appointees and any of their replacements shall hold office until the first (1st) anniversary of the original issuance of the Final Subdivision Public Report. Thereafter, the Declarants may appoint a majority of the members of the Architectural Committee, and any of their replacements, until ninety percent (90%) of the Lots have been sold and deeds to them Recorded in favor of Owners, other than the Declarants, or until the fifth (5th) anniversary of the original issuance of the Final Subdivision Public Report, whichever is the first (1st) to occur. After one (1) year from the date of the original issuance of the Final Subdivision Public Report, the Board shall have the power to appoint one (1) member of the Architectural Committee, whose power shall continue until ninety percent (90%) of the Lots have been sold and deeds to them Recorded in favor of Owners, other than the Declarants, or until the fifth (5th) anniversary of the issuance of the Final Subdivision Public Report, whichever is first (1st) to occur. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Committee. Any person appointed to the Architectural Committee by the Board must be a Member.

13.3 SUBMISSION OF PLANS; ACTION BY THE ARCHITECTURAL COMMITTEE.

A. When a proposed work of Improvement is submitted to the Architectural Committee for review, the Architectural Committee shall grant the requested approval only if the Architectural Committee, in its sole discretion, finds that all of the foregoing provisions have been satisfied:

1. The Owner's plans and specifications:
 - a. Conform to the provisions of the Governing Documents that are in effect at the time said plans are submitted to the Architectural Committee;
 - b. Will result in the construction of an Improvement that is in harmony with the external design of other structures and/or landscaping within the Development; and
 - c. Will not interfere with the reasonable enjoyment of any other Owner of its, his, her or their Lot.

2. The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standard prevailing within the Development, together with the overall plan and scheme of the subdivision as well as the purpose of the provisions of the Governing Documents.

B. Though it is recognized that the Architectural Committee's determination to approve or disapprove an Improvement will, of necessity, be subjective to some degree, the members of the Architectural Committee shall act reasonably and in good faith. Factors commonly considered by the Architectural Committee in reviewing proposed Improvements include, but are not limited to, the quality of workmanship and materials to be used in the proposed Improvement; the harmony of the proposed Improvement's exterior design, finish materials and color with that of the existing structure; and the proposed location of the Improvement in relation to existing topography, finished grade elevations, roads, Common Areas and other structures.

C. The Architectural Committee shall be entitled to determine that a proposed Improvement, or any component thereof, is unacceptable in the context of a particular Lot, even if the same or a similar Improvement/component has previously been approved for use at another location or locations within the Development. Factors that may cause the Architectural Committee to reject a proposal that was previously approved at another site include, but are not limited to: poor drainage; visibility from roads, Common Area or Lots; proximity to other Residences or Major Components; or a prior adverse experience with the product or design of the proposed Improvement or any component thereof.

13.4 ARCHITECTURAL RULES.

A. The Architectural Committee may, from time to time, subject to review by the Board, adopt, amend and repeal the Architectural Rules. The Architectural Rules shall provide guidelines for the architectural design, placement of any work of Improvement, color schemes, exterior finishes and materials as well as any similar features which are recommended for use within the Development; provided that, the Architectural Rules shall not be in derogation of the minimum standards required by the provisions of the Governing Documents. In the event of any conflict between the Architectural Rules, Declaration, Articles and/or Bylaws, the provisions of the Declaration, Articles and/or Bylaws, whichever is/are applicable, shall prevail.

13.5 VARIANCES.

A. The Board or the Architectural Committee shall be entitled to allow reasonable variances with respect to the provisions of this Section 13.5 or any restrictions specified in the provisions of **ARTICLE IV** of the Declaration, entitled, "**COVENANTS AND USE RESTRICTIONS**," that have application to architectural design, in order to overcome any practical difficulties, to avoid any unnecessary expense or to prevent any unjustifiable hardships; provided that, such grant will not in any way relieve the requesting Owner from complying with any and all of the requirements of any governmental or quasi-governmental agency or authority and the following conditions are met:

1. If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise apply under the provisions of the Governing Documents, the Board or the Architectural Committee must conduct a hearing on such proposed variance after giving at least ten (10) days' prior written notice to all of the Owners whose Lots are within one hundred (100) feet of the Lot to which the variance will apply. Such Owners shall have thirty (30) days from the receipt by them of such notice in which to submit to the Board or the Architectural Committee, whichever is applicable, their written comments or objections with respect to such variance. No decision shall be made concerning the proposed variance until the above reference thirty (30) day period has expired.
2. The Board or the Architectural Committee, whichever is applicable, must make a good faith determination that:
 - a. The requested variance does not constitute a material deviation from the overall plan and scheme of the Development or from any provision of the Governing Documents and that the proposal allows the overall architectural objectives of the Development to be substantially achieved despite such variance;
 - b. The proposed variance relates to a requirement of the provisions of the Governing Documents that it is unnecessary or burdensome under the circumstances; and
 - c. The proposed variance, if granted, will not result in a material detriment or create an unreasonable nuisance with respect to any other Lot, the Common Area or an Owner.

13.6 CERTIFICATE OF COMPLIANCE.

A. Within thirty (30) days after a written demand is delivered to the Board or the Architectural Committee, as the case may be, by an Owner and upon payment to the Association of any reasonable fee, if applicable, which may be fixed from time to time by the Board, the Board or the Architectural Committee, whichever is applicable, shall issue a Certificate of Compliance, which shall be executed by two (2) Directors or two (2) members of the Architectural Committee, as the case may be, certifying, with respect to any Lot that is specified in the above referenced demand and is owned in fee by the applicant Owner(s), that as of the date of such Certificate of Compliance, either:

1. All of the Improvements made, as well as any other work that has been completed on such Lot, complies with the provisions of the Governing Documents and any variances that may have been issued are in compliance with the provisions of Section 13.5 of the Declaration, entitled, "VARIANCES;" or
2. That any such Improvements and/or other work do not so comply, in which event the Certificate of Compliance shall also identify the noncomplying Improvements and/or other work and shall set forth with particularity the basis of such noncompliance.

B. Any purchaser from such Owner, or anyone deriving any interest in such Lot through the Owner, shall be entitled to rely on such Certificate of Compliance with respect to the matters therein set forth, such matters being conclusive as between the Association, all of the Owners and any persons deriving any interest in such Lot through them.

**ARTICLE XIV
AMENDMENT OF DECLARATION**

14.1 PROCESS TO AMEND OR REVOKE THE PROVISIONS OF THE DECLARATION.

A. Prior to the close of the first (1st) sale of an interest in the fee title of a Lot to a purchaser other than the Declarants, the provisions of the Declaration as well as any amendments to it, may be amended or revoked, in any respect, by the execution by the Declarants of an instrument amending or revoking any or all of the provision of the Declaration.

1. Any amending or revoking instrument shall make appropriate reference to the provisions of the Declaration as well as any amendments thereto and shall be properly acknowledged as well as Recorded in the office of the County Recorder.

B. Subject to the provisions of 12.1F., below, after the close of the first (1st) sale of an interest in the fee title of a Lot to a purchaser other than the Declarants, the provisions of the Declaration may be amended or revoked in any respect, by the vote or written consent of a simple majority of the voting power of each class of the Members or, if a single class of the Members is then in effect, by the vote or written consent of not less than:

1. A simple majority of the voting power of the Association; and
2. A simple majority of the voting power of the Association, excluding the voting power of the Declarants.

C. However, if any provision of the Governing Documents requires a greater or lesser percentage of the voting power of any class of the Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of the Members shall be required to amend or revoke such provision.

D. Also, if the consent or approval of any governmental authority, Eligible Mortgage Holder or other person, firm, agency or entity is required under the provisions of the Governing Documents with respect to any amendment to or revocation of any provision of the Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

E. Any amendment or revocation to a provision of the Declaration that is subsequent to the close of the first (1st) sale of an interest in the fee title of a Lot to a purchaser other than the Declarants, shall be evidenced by an instrument that has been certified by the Secretary or other duly authorized officer of the Association, makes the appropriate reference to the provision of the Declaration that has been amended or revoked, as the case may be, as well as any other prior amendments to the Declaration that have been made in compliance with the provisions of this **ARTICLE XIV**, is appropriately acknowledged and has been Recorded in the Office of the County Recorder of the County.

F. Notwithstanding any other provision of this Section 14.1 to the contrary, no addition, amendment, change, modification and/or termination of the conditions, covenants and restrictions of the Governing Documents which establish, provide for, govern, regulate or relate to matters imposed on the Development that have application solely to a Driveway Cost Center or any portion thereof, shall be effective for any purposes until approved by a majority of the voting power, in person or by proxy, of such Driveway Cost Center Owners who are entitled to vote and will be affected by any such addition, amendment, change, modification and/or termination.

14.2 CONTROL IF THE PROVISIONS OF ARTICLE XII CONFLICT WITH ANY MORTGAGEE PROTECTION OR OTHER PROVISIONS OF THE DECLARATION.

A. To the extent any provision of Sections 14.1 through 14.5, inclusive, of the Declaration conflict with the provisions of Sections 12.1 through 12.17, inclusive, or any other provisions of the

Declaration, except those contained in the provisions of Section 14.3 of the Declaration, entitled, "COMPLIANCE WITH THE PROVISIONS OF BUSINESS AND PROFESSIONS CODE SECTION 11018.7," the provisions of Sections 12.1 through 12.17, inclusive, or any other conflicting provisions, shall control.

14.3 COMPLIANCE WITH THE PROVISIONS OF BUSINESS AND PROFESSIONS CODE SECTION 11018.7.

A. All amendments to or revocations of the provisions of the Declaration shall comply with all of the applicable provisions of California Business and Professions Code section 11018.7, or any compatible superseding statutes.

14.4 RELIANCE ON AMENDMENTS TO OR REVOCATIONS OF THE PROVISIONS OF THE DECLARATION.

A. Any amendments to and/or revocations of the provisions of the Declaration that have been perfected in accordance with the terms of the provisions of the Declaration, may be presumed valid by anyone relying on them in good faith.

14.5 CONFORMING WITH THE MORTGAGEE REQUIREMENT PROVISIONS OF THE DECLARATION.

A. It is the intent of the Declarants that the provisions of the Governing Documents, together with the Development in general, shall now and in the future, meet all of the requirements necessary to purchase, guarantee, insure or subsidize any Mortgage of a Lot by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and the Veterans Administration. The Board and each Member shall take any action or shall adopt any resolutions that are reasonably required by the Declarants or any Mortgagee to conform to the provisions of the Governing Documents and/or the Development, and to the Mortgage requirements of any of the above referenced entities or agencies.

14.6 CITY APPROVAL REQUIRED FOR CERTAIN AMENDMENTS.

A. Notwithstanding any other provision of the Governing Documents, no addition, amendment, change, modification or termination of the conditions, covenants and restrictions of the Governing Documents which establish, provide for, govern, regulate or relate to matters imposed on the Development by the conditions of approval which are entitled "RESOLUTION NO. 8758 (1998 Series) A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN LUIS OBISPO APPROVING THE VESTING TENTATIVE MAP FOR A RESIDENTIAL SUBDIVISION AT 1855 PREFUMO CANYON ROAD, NEAR CASTILLO COURT, CREATING 35 RESIDENTIAL LOTS ON 12 ACRES, AND TWO OPEN SPACE LOTS TOTALING 372 ACRES (TR 26-95; COUNTY TRACT MAP NO. 2193)" shall be effective for any purposes until approved in writing by the City.

**ARTICLE XV
GENERAL PROVISIONS**

15.1 BINDING EFFECT.

A. The Governing Documents shall inure to the benefit of and be binding on the successors and assigns of the Declarants and the personal representatives, grantees, tenants and assigns of the Owners.

15.2 CONFLICTS WITH OTHER DOCUMENTS.

A. If there are conflicts or inconsistencies between the provisions of the Declaration and either the Articles of Incorporation, the Bylaws, the Association Rules or the Architectural Rules, the provisions of the Declaration shall prevail.

15.3 CUMULATIVE REMEDIES.

A. Each remedy provided for in the provisions of the Governing Documents shall be cumulative and not exclusive. Failure to exercise any remedy provided for in the provisions of the Governing Documents shall not, under any circumstances, be construed as a waiver of such remedy.

15.4 EASEMENTS RESERVED AND GRANTED.

A. Any easements referred to in the provisions of the Governing Documents shall be deemed reserved or granted, or both reserved and granted, by reference to the appropriate provisions of the Governing Documents in any deed to any Lot.

15.5 HEADINGS.

A. The headings used in the provisions of the Declaration are for convenience only and are not to be used to interpret the meaning of any such provisions.

15.6 LIBERAL CONSTRUCTION.

A. The provisions of the Governing Documents should be liberally construed to effectuate their purpose of creating a Common Plan for the development of a Planned Development and for the maintenance of the Common Area and Lots, as well as the operation of the Association.

15.7 NO DISCRIMINATORY RESTRICTIONS.

A. No Owner shall execute or cause to be Recorded any instrument that imposes a restriction upon the sale, leasing or occupancy of its, his, her or their Lot on the basis of race, sex, marital status, national ancestry, color or religion.

15.8 NO FIXED TERM.

A. The Declaration shall continue in full force and effect until the Declaration is revoked pursuant to **ARTICLE XII** of the Declaration, entitled, "**AMENDMENT OF DECLARATION.**"

15.9 NO REPRESENTATIONS OR WARRANTIES.

A. No representations or warranties of any kind, express or implied, have been given or made by the Declarants, or their agents or employees, in connection with the Property or any portion thereof, including, but not limited to, its physical condition, zoning, compliance with applicable laws, fitness for intended use or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a Common Interest Planned Development, except as specifically and expressly set forth in the provisions of the Governing Documents and/or as filed by the Declarants from time to time with the California Department of Real Estate.

15.10 NOTICES AND COMMUNICATION.

A. Unless otherwise expressly stated in the provisions of the Governing Documents, all notices and/or communications that may be required by the provisions of the Governing Documents shall comply with the following guidelines:

1. Any communication and/or notice of any kind permitted or required in the provisions of the Governing Documents shall be in writing and may be served, as an alternative to personal service, by mailing the notice as follows:
 - a. If to a Member, to the street address of such Member's Lot or to such other address that such Member may from time to time designate in writing to the Board.
 - b. If to the Association, to the Prefumo Creek Estates Homeowners Association at the principal office of the Association, or to such other address as the Board may from time to time designate in writing to the Members.

15.11 NOTIFICATION OF SALE.

A. Concurrently with the consummation of the sale of any Lot under circumstances where the transferee becomes an Owner of the Lot, or within five (5) business days thereafter, the transferee shall notify the Association in writing of such sale. Such notification shall set forth the name of the transferee and its, his, her or their Mortgagee and transferor, the common address of the Lot purchased by the transferee, the transferee's and the Mortgagee's mailing address and the date of the deed conveying an interest in such Lot to the transferee. Before the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the Manager, if any, shall be deemed to be duly made and given to the transferee if duly and timely made and given to the transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after they have been mailed, if mailed to the transferee or its, his, her or their transferor, if the Board has received no notice of transfer, as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or upon personal delivery to any occupant of the Lot over the age of twelve (12) years.

15.12 NUMBER; GENDER.

A. The singular shall include the plural and the plural the singular unless the context requires the contrary. The masculine, feminine and neuter shall each include masculine, feminine or neuter as the context requires.

15.13 OWNER'S ACCESS TO BOOKS.

A. Any Owner may, at any reasonable time and upon reasonable notice to the Board or the Manager, as the case may be, at its, his, her or their own expense, cause an audit or inspection to be made of the books and financial records of the Association.

15.14 SEVERABILITY OF PROVISIONS.

A. The provisions of the Declaration shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other provisions.

15.15 VIOLATION OF A PROVISION OF THE GOVERNING DOCUMENTS AS NUISANCE.

A. Every act or omission in Violation of a Provision of the Governing Documents shall constitute a nuisance and, in addition to all other remedies that may be available, may be abated or enjoined by an Owner, any Director, the manager, if any, or the Association.

2004

The Declarants have executed the Declaration as of the 24 day of August,

PLAYA DEL SOL DEVELOPMENT, LLC,
a Delaware limited liability company, registered in
California as **PLAYA DEL SOL - SLO, LLC**

By: [Signature]
Richard J. Loughead, Jr., manager

LARWIN COMPANY,
a California corporation

By: [Signature]
Denis G. Cullumber, its President

PREFUMO CREEK HOMEOWNERS ASSOCIATION,
a California non-profit mutual-benefit corporation

By: [Signature]
Richard J. Loughead, Jr, its President

ACKNOWLEDGMENT
STATE OF CALIFORNIA

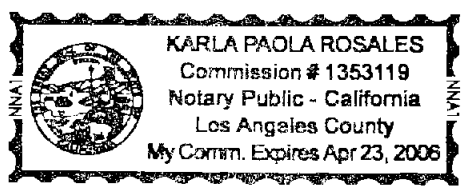
COUNTY OF LOS ANGELES } SS.

On AUGUST 24, 2004, before me,
KARLA PAOLA ROSALES, a Notary Public in
and for said County and State, personally appeared

DENIS G. CULLUMBER personally known
to me (~~or 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.

WITNESS my hand and official seal.

[Signature]
Signature of Notary



ACKNOWLEDGMENT
STATE OF CALIFORNIA

COUNTY OF _____) SS.

On _____, before me,
_____, a Notary Public in
and for said County and State, personally appeared

_____ personally known
to me (or 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.

WITNESS my hand and official seal.

Signature of Notary

ACKNOWLEDGMENT
STATE OF CALIFORNIA

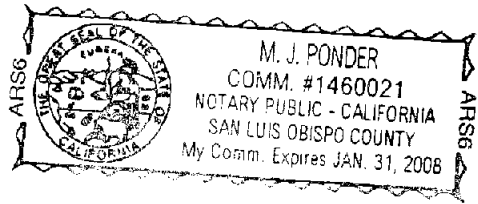
COUNTY OF San Luis Obispo) SS.

On August 25, 2006, before me,
M.J. Ponder, a Notary Public in
and for said County and State, personally appeared

Richard J. Loughhead JR personally known
to me (or ~~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.

WITNESS my hand and official seal.

M.J. Ponder
Signature of Notary



CONSENT OF LIENHOLDERS AND SUBORDINATION OF LIEN

The undersigned Beneficiary under that certain Deed of Trust dated September 8, 2003 and recorded September 15, 2003, as Instrument Number 2003-105428 Official Records of San Luis Obispo County, California

And under that certain Deed of Trust dated September 8, 2003 and recorded September 15, 2003, as Instrument No. 2003-105429 Official Records of San Luis Obispo County, California

And under that certain Deed of Trust dated March 3, 2004 and recorded March 16, 2004, as Instrument no. 2004-20422 Official Records of San Luis Obispo County, California,

Consents to all the provisions contained in the attached First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tract No. 2193 for Perfumo Creek Estates ("Declaration"), executed by Playa Del Sol Development, LLC, a Delaware limited liability company and Larwin Company, a California corporation, as Declarant, and agrees that the lien of the above referenced Deeds of Trusts shall be junior and subordinate and subject to the Declaration.

Dated: August 24th, 2004

HOUSING CAPITAL COMPANY
A Minnesota Partnership

BY: Karen L. Goodbody
Karen L. Goodbody
Vice President

SEE ATTACHED FOR NOTARY ACKNOWLEDGEMENT

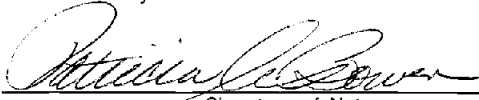
STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

On August 24, 2004 before me, THE UNDERSIGNED

a Notary Public in and for said County and State, personally appeared KAREN L. GOODBODY

personally known to me (~~or 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.

WITNESS my hand and official seal.


Signature of Notary



STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____ before me, THE UNDERSIGNED

a Notary Public in and for said County and State, personally appeared _____

personally known to me (or 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.

WITNESS my hand and official seal.

Signature of Notary

CONSENT OF LIENHOLDERS AND SUBORDINATION OF LIEN

The undersigned Beneficiary under that certain Deed of Trust dated November 28, 2000, and recorded December 6, 2000, as Instrument Number 2000-72421 Official Records of San Luis Obispo County, California, Consents to all the provisions contained in the attached First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tract No. 2193 for Perfumo Creek Estates ("Declaration"), executed by Playa Del Sol Development, LLC, a Delaware limited liability company and Larwin Company, a California corporation, as Declarant, and agrees that the lien of the above referenced Deeds of Trusts shall be junior and subordinate and subject to the Declaration.

Dated: August 26, 2004

MID-STATE BANK
A California corporation

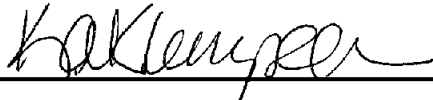
BY: 
Clarence C. Cabrerós, Vice President

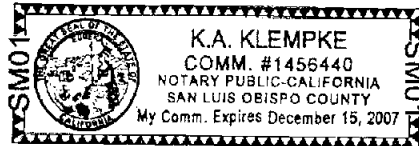
ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
County of San Luis Obispo } SS.

On August 26, 2004, before me, K.A. Klempe, notary public, personally appeared CLARENCE C. CABREROS, 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.

WITNESS my hand and official seal.





CONSENT OF LIENHOLDERS AND SUBORDINATION OF LIEN

The undersigned Beneficiary under that certain Deed of Trust dated September 1, 1999, and recorded September 10, 1999, as Instrument Number 1999-065410 Official Records of San Luis Obispo County, California, Consents to all the provisions contained in the attached First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tract No. 2193 for Perfumo Creek Estates ("Declaration"), executed by Playa Del Sol Development, LLC, a Delaware limited liability company and Larwin Company, a California corporation, as Declarant, and agrees that the lien of the above referenced Deeds of Trusts shall be junior and subordinate and subject to the Declaration.

Dated: August 27, 2004

BUENA TIERRA
A General Partnership

BY: *Donald G. Parker*
Donald G. Parker, General Partner

ACKNOWLEDGEMENT

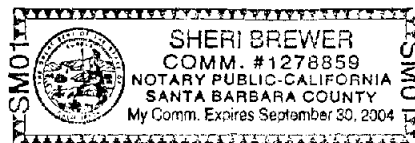
STATE OF CALIFORNIA }
County of San Luis Obispo } SS.

On August 27, 2004, before me, *Sheri Brewer*, notary public, personally appeared

DONALD G. PARKER, 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.

WITNESS my hand and official seal.

Sheri Brewer



END OF DOCUMENT