

ARTICLE 1	
DEFINITIONS	1
1.1 Architectural Control Committee	1
1.2 Articles	2
1.3 Assessments	2
1.4 Association	2
1.5 Association Management Documents	2
1.6 Association Property	2
1.7 Board	2
1.8 By-Laws	2
1.9 City	3
1.10 Common Expenses	3
1.11 County	3
1.12 Declarant	3
1.13 Declaration	3
1.14 DRE	3
1.15 Improvements	3
1.16 Lot	3
1.17 Member	3
1.18 MerchantBuilder	3
1.19 Mortgage	4
1.20 Mortgagee	4
1.21 Mortgagor	4
1.22 Notice and Hearing	4
1.23 Notice of Annexation	4
1.24 Owner	4
1.25 [Intentionally Left Blank]	4
1.26 [Intentionally Left Blank]	4
1.27 Project	4
1.28 Residence	4
1.29 Rules and Regulations	4
1.30 Tentative Plan	4
1.31 Application of Definitions	4
ARTICLE 2	
INTRODUCTION	4
2.1 General Plan or Development	4
2.2 Membership in Association	5
2.3 Annexation of Subsequent Phases	5
2.4 Development Control: Reservation of Rights	5
2.5 Purpose of Article	5
ARTICLE 3	
RESERVATION OF EASEMENTS AND OTHER PROPERTY RIGHTS IN THE ASSOCIATION PROPERTY	6
3.1 Amendment to Eliminate Easements	6
3.2 Owners' Descents	6

3.3 Limitations on Owners' Easement Rights	6
3.4 Delegation of Association Property Use Rights	7
3.5 Easements for Public Utilities	7
3.6 Easements for Public Services	7
3.7 Easements for Utilities	7
3.8 Easements Over Association Property	8
3.9 Easements For Maintenance of Retention Basins	8
3.10 Easements for Drainage and Irrigation Water Lines	8
3.11 Easements for Master Antennae, Cable Television, Internet and Intranet Cabling, and Alarm System Cabling	8
3.12 Easements For Maintenance of the Association Property	8
3.13 Easement for Maintenance of Front Yard Landscaping	9
3.14 Easements for Clustered Mailboxes	9
3.15 Easements Over Sidewalks	9
3.16 Public Bicycle, Golf Cart and Pedestrian Trails	9
3.17 Reservation of Construction Rights	9
3.18 Title to the Association Property	9
3.19 Reservation of Association Property Easements	10

ARTICLE 4

THE ASSOCIATION	10
-----------------------	----

4.1 Membership	10
4.2 Classes of Membership	10
4.3 Special Voting Procedures for Election of the Board	11
4.4 Voting Rights	10
4.5 Voting: Joint Owners	11
4.6 Adjustment of Voting Rights	11
4.7 Vesting of Voting Rights	11
4.8 Suspension of Voting Rights	11
4.9 Transfer	11
4.10 Proxies	11
4.11 Record Dates	11

ARTICLE 5

POWERS AND DUTIES OF THE ASSOCIATION	12
--	----

5.1 Management Body	12
5.2 Powers	12
5.3 Duties	13
5.4 Discretionary Powers	17
5.5 Limitations on Contracts	18
5.6 Delegation of Duties	18
5.7 Right of Entry for Emergency	18
5.8 Right of Entry for Repairs	18
5.9 Limitations on Board Action	18
5.10 Licenses, Easements and Rights-of-Way	19

ARTICLE 6
ASSESSMENTS 19

6.1 Creation of the Lien and Personal Obligation of Assessment 19
6.2 Purpose of Regular Assessments; Levy and Collection 20
6.3 Regular Assessments-Basis 20
6.4 Special Assessments 20
6.5 Emergency Situations 21
6.6 Compliance Assessments 21
6.6.1 Limitation on Assessments 21
6.7 Date of Commencement of Regular Assessments: Due Dates 22
6.8 Collection of Assessments 23
6.8.1 Delinquent Assessments 23
6.9 Certification of Payment 23
6.9.1 Written Statement by Association Upon Request of Owner 23
6.10 Reserves 23
6.11 Offsets and Waiver Prohibited 24
6.12 Exempt Property 25

ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION 25

7.1 Effect of Nonpayment of Assessments 25
7.2 Notice of Delinquent Assessments 25
7.3 Imposition of Lien 25
7.3.1 Foreclosure Sale 26
7.4 Curing of Default: Release Of Lien 26
7.5 Cumulative Remedies 26
7.6 Mortgagee Protection 26
7.7 Alternative Dispute Resolution - Assessments 27

ARTICLE 8
USE RESTRICTIONS 27

8.1 Permitted Use of Residence 27
8.2 Business and Commercial Activity 27
8.3 No Temporary Structures 28
8.4 Association Property Use 28
8.5 Liability for Damage to Association Property 28
8.6 Signs 28
8.7 Animals and Plants 29
8.8 Nuisances 29
8.9 No Hazardous Activities 29
8.10 Improvements 29
8.11 Windows 30
8.12 Parking 30
8.13 Regulation of Parking 30

8.14 Leasing	30
8.15 Drilling	31
8.16 Trash	31
8.17 Antennas: Exterior Structures	31
8.18 Drainage	32
8.19 Exterior Maintenance and Repair	32
8.20 Alteration of Walls and Fences	32
8.21 Party Walls and Fences	32
8.22 Solar Energy Systems	32
8.23 Prohibition Against Improvements Within Association Property	32
8.24 Water Savings Devices on Dishwashers, Toilet Flushing Mechanisms And Shower and Sink Heads Required	32
8.25 No Easements for View Purposes: Disclaimer	33
8.26 No Further Subdivision.	33
8.27 Compliance With Laws	33

ARTICLE 9

ARCHITECTURAL CONTROL

9.1 Exemptions From Architectural Control	33
9.2 Control	33
9.3 Architectural Control Committee	34
9.4 Meeting of the Architectural Control Committee	34
9.5 Architectural Standards	34
9.6 Architectural Approval - Review of Plans and Specifications	35
9.7 Decisions of the Architectural Control Committee	36
9.8 Submittal to Public Agencies - Right of Architectural Control Committee to Review	36
9.9 Approval of City	36
9.10 Conflicts Between City and Architectural Control Committee	36
9.11 No Waiver of Future Approvals	36
9.12 Compensation of Members	36
9.13 Variances	36
9.14 Inspection of Work	37
9.15 Appeal	37
9.16 Non-Liability of Architectural Control Committee Members	37

ARTICLE 10

REPAIR AND MAINTENANCE

10.1 Repair and Maintenance by Association	37
10.2 Inspection of Association Property	38
10.3 Repairs and Maintenance by Owner	38
10.4 Maintenance of Public Utility	39
10.5 Damage and Destruction Affecting a Residence - Duty to Rebuild	39

ARTICLE 11

DAMAGE OR DESTRUCTION TO THE
ASSOCIATION PROPERTY

11.1 Restoration of Damaged Association Property 39

11.2 Retention of Excess Insurance Proceeds In General Fund 40

11.3 Requirements of FHLMC, and FNMA 40

11.4 Damage by Owners 40

ARTICLE 12

CONDEMNATION 40

12.1 Distribution of Awards - Association Property 40

12.2 Board of Directors as Attorney-in-Fact 40

ARTICLE 13

COVENANT AGAINST PARTITION 40

13.1 Covenant Against Partition 40

ARTICLE 14

INSURANCE 40

14.1 Required Insurance Coverage 40

14.2 Overriding Insurance Requirements 43

14.3 Other Insurance Coverage 43

14.4 Notice of Cancellation of Insurance 43

14.5 Annual Review of Coverage 43

14.6 Waiver by Owners 43

14.7 Premiums, Proceeds and Settlement 43

14.8 Rights and Duties of Owners to Insure 44

14.9 Trustee for Policies 44

14.10 Mortgage Clause 44

ARTICLE 15

MORTGAGEE PROTECTION 44

15.1 Mortgagee Protection Provisions 44

15.2 Violation of Mortgagee Protection Provisions 47

15.3 Effect of Amendments 47

15.4 Amendments to Conform With Mortgagee Requirements 47

ARTICLE 16

ANNEXATION OF ADDITIONAL PROPERTY 47

16.1 Phased Development of the Project 48

16.2 Annexation Pursuant to General Plan of Development 48

16.3 Annexation Pursuant to Approval 48

16.4 Notice of Annexation 48

16.5 Amendments to Notices of Annexation 48

16.6 Failure to Annex Annexation Property 49

16.7 Rights of Successor, Declarant and Merchant Builders to Annex 49

ARTICLE 17	
ENFORCEMENT OF BONDED OBLIGATIONS	49
17.1 Enforcement of Bonded Obligations	49
ARTICLE 18	
INTEREST AND EXEMPTION OF DECLARANT	50
18.1 Exemption of Declarant and Merchant Builders	50
18.2 Reservation of Rights	50
18.3 Assignment of Declarant's Rights	51
ARTICLE 19	
GENERAL PROVISIONS	51
19.1 Enforcement	51
19.2 Right to Cure Alleged Defects	52
19.2.1 Non-Adversarial Dispute Resolution Procedure Election	52
19.2.2 Limited Contractual Warranty	52
19.2.3 Agent for Fix-It Procedure	53
19.3 Right of Lienholder	53
19.4 Enforcement	53
19.5 Notice of Actions Against Declarant	53
19.6 Construction Defect Actions	54
19.7 Dispute Notification and Resolution Procedure (Declarant Disputes): Waivers	54
19.7.1 Notice	54
19.7.2 Right to Inspect and Right to Corrective Action	54
19.7.3 Civil Code Sections 1368.4 and 375	54
19.7.4 Mediation	54
19.7.5 Judicial Reference	55
19.7.6 Waivers and Amendment	57
19.7.7 Exceptions to Mediation and Reference: Statutes of Limitation	57
19.8 Severability	57
19.9 Term	57
19.10 Construction	58
19.11 Singular Includes Plural	58
19.12 Amendments	58
19.13 Encroachments	60
19.14 Notices	60
19.15 Delivery of Association Documents to Prospective Purchasers	60
19.16 Conflicts in Management Documents	60
19.17 Attorneys' Fees	60
19.18 Violation as Nuisances	61
19.19 Exhibits	61
19.20 Indemnification of Corporate Agents	61
19.21 Limitation on Liability of Officers, Directors and Committee Members	61
19.22 County Requirements	61

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
THE VILLAS ON VICTORIA, A PLANNED DEVELOPMENT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made by HURLEY DEVELOPMENT CORP., a California corporation (the Declarant).

WITNESSETH:

A. Declarant is the owner of that certain real property located in the City of Cathedral City, County of Riverside, State of California, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. Declarant desires to develop the Project as a common interest development, more particularly described in Section 1351(k) of the California Civil Code as a Planned development (the Project), which include facilities for the common use, benefit, and enjoyment of all Owners. The development of the Project shall be consistent with the overall plan of development submitted to and approved by the City of Cathedral City, California.

C. Declarant intends to establish a balanced community and to develop and convey the Project pursuant to a general plan for the care, use, and management of the Project, and subject to certain protective covenants, conditions, restrictions, reservations, easements, liens and charges, under the general plan of improvement for the benefit of all Owners of Lots in the Project.

D. Declarant deems it desirable for the efficient enforcement, protection and preservation of the desirability and attractiveness of the Project to create a corporation which shall be delegated and assigned the powers of administering and enforcing the Protective Covenants.

E. THE VILLAS ON VICTORIA OWNERS' ASSOCIATION, a California nonprofit mutual benefit corporation, has been or will be incorporated under the laws of the State of California for the purpose of exercising the aforesaid powers.

F. Declarant intends to convey the Project subject to the Protective Covenants set forth hereinbelow.

NOW, THEREFORE, Declarant covenants, agrees and declares that it does hereby establish a general plan for the development, maintenance, care, improvement, protection, use, occupancy, management and enjoyment of the Project, and that all or any portion of the Project shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved, subject to the covenants, conditions, restrictions, limitations, easements and rights ("Protective Covenants") set forth herein, all of which are for the purpose of uniformly enhancing and protecting the attractiveness and desirability of the Project, in furtherance of said general plan for the maintenance, protection, subdivision, improvement and sale of the Project, or any portion(s) thereof. Each and all of the Protective Covenants are hereby imposed as equitable servitudes upon the Property, which shall run with and burden the Project and shall be binding upon all persons having any right, title or interest in the Project, or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of and be binding upon Declarant, its successors and assigns, all subsequent owners of all or any portion of the Project, together with their grantees, heirs, executors, administrators, devisees, successors and assigns.

ARTICLE 1
DEFINITIONS

1.1 "Architectural Control Committee" shall mean and refer to the architectural committee created pursuant to the Article herein entitled "Architectural Controls."

1.2 "Articles" shall mean and refer to the Articles of Incorporation of the Association, filed in the Office of the Secretary of State of the State of California, as such Articles may be amended, from time to time.

1.3 "Assessments" shall be used as a generic term which shall mean and refer to the following:

a. "Regular Assessment" shall mean and refer to the annual charge against each Owner and his respective Lot representing a portion of the Common Expenses of the Association;

b. "Compliance Assessment" shall mean and refer to the personal charge against an Owner representing the costs incurred by the Association in the repair of any damage to the Association Property for which such Owner was responsible, the costs incurred by the Association in bringing such Owner and his Lot into compliance with this Declaration, any amount due the Association based upon disciplinary proceedings against an Owner in accordance with this Declaration, or any amount due the Association to reimburse the Association for administrative costs attributable to an Owner as provided herein;

c. "Special Assessment" shall mean and refer to the charge against an Owner and his respective Lot representing a portion of the cost of reconstructing any damaged or destroyed portion or portions of the Association Property, of constructing or installing any capital improvements to the Association Property, or of taking any extraordinary action for the benefit of the Association Property or the membership of the Association, pursuant to the provisions of this Declaration; and

d. "Reconstruction Assessment" shall mean and refer to a charge against each Owner and his Lot representing a portion of the cost to the Association for the repair, replacement or reconstruction of any portion or portions of Improvements within the Association Property, pursuant to the provisions of this Declaration.

1.4 "Association" shall mean and refer to The Villas on Victoria Owners' Association, a California nonprofit mutual benefit corporation, and its successors and assigns. The Association is an association as defined in Section 1351(a) of the California Civil Code.

1.5 "Association Management Documents" shall mean and refer to this Declaration, the Articles, By-Laws, Rules and Regulations, and any Architectural Standards from time to time adopted by the Board.

1.6 "Association Property" shall mean and refer to all the real property and Improvements located thereon, including, without limitation, the private streets, controlled access gates, if any, and related facilities, entry monument signs, landscaped areas, Project perimeter walls and such other Improvements which are owned by the Association in fee, or over which the Association has an easement for maintenance purposes, or which the Association is otherwise obligated to maintain pursuant to this Declaration, any Notice of Annexation or any agreement, easement, license, permit or other similar document executed by Declarant as a condition to approval of the Project. Association Property may be designated by Declarant in Notices of Annexation recorded pursuant to the Article herein entitled Annexation of Additional Property. The Association shall have nonexclusive easements for access on, over, across and through all Lots necessary for the Association to fulfill its maintenance responsibilities hereunder, specifically including, but not limited to an easement over each Lot for yard maintenance by the Association. Association Property owned in fee or over which the Association maintains an easement shall include, but not necessarily be limited to that property enumerated on Exhibit "B" attached to this Declaration, and incorporated herein by this reference.

1.7 "Board" shall mean and refer to the Board of Directors of the Association, elected in accordance with the By-Laws of the Association and this Declaration.

1.8 "By-Laws" shall mean and refer to the By-Laws of the Association which have been, or will be, adopted by the Board, as such By-Laws may be amended, from time to time.

1.9 "City" shall mean and refer to the City of Cathedral City, a municipal corporation, its successors and assigns, and its various departments, divisions, employees and representatives.

1.10 "Common Expenses" shall mean and refer to the actual and estimated costs to be paid by the Association for the following: (a) owning, maintaining, managing, operating, painting, repairing and replacing Improvements within the Association Property; (b) managing and administering the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and any Association employees; (c) providing utilities and other services to the Association Property; (d) providing insurance as provided for herein; (e) paying that portion of any Assessment attributable to Common Expenses not paid by the Owner responsible for payment; (f) paying taxes for the Association; (g) funding adequate reserves for the repair and replacement of those elements of the Association Property which must be repaired and replaced on a periodic basis and to cover the deductible amounts under any insurance policies maintained by the Association; and (h) paying for all other goals and services designated by, or in accordance with, other expenses incurred by the Association for the benefit of all Owners.

1.11 "County" shall mean and refer to the County of Riverside, California.

1.12 "Declarant" shall mean and refer to HURLEY DEVELOPMENT CORP., a California corporation, Merchant Builder, and to any person or entity acquiring some or all of Declarant's interest in the Project (including all of Declarant's rights and obligations as created and established herein) pursuant to a written assignment, deed or other instrument executed by Declarant which is recorded in the Office of the County Recorder. Any such instrument may include only certain specific rights and/or obligations of the Declarant, and may be subject to such conditions as Declarant may impose in its sole discretion.

1.13 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements, and to all amendments to this Declaration as may be recorded, from time to time, in the Office of the County Recorder, in accordance with Section 1351(h) and Section 1353 of the California Civil Code.

1.14 "DRE" shall mean and refer to the Department of Real Estate of the State of California, and any successors thereto.

1.15 "Improvements" shall mean and refer to all structures and appurtenances thereto of every kind, including, but not limited to, Residences, swimming pools and spas, if any, parking areas, street lights, pavement, sidewalks, driveways, walls, fences, decorative or informative signs, retaining walls, if any, mail kiosks, if any, common trash receptacles, if any, screens, private utility line connections, poles, signs, and all Association Property landscaping and irrigation systems. Improvements shall also mean and refer to all additions and/or modifications to the exterior of Residences, including, but not limited to, (a) any change or alteration of any Improvement, either as originally installed and constructed or as approved by the Architectural Control Committee; (b) changing the roofing material on any Residence; and/or (c) building, constructing, installing, altering or replacing, as the case may be, any pools, spas, flooring and covers, exterior doors, screen doors, yard improvements, patio or balcony covers, gazebos, walls or fences, shades, awnings, screen doors, exterior doors, skylights, solar heating panels, exterior air conditioning and/or water softening fixtures or systems, and all hedges, windbreaks and other landscaping which left in its natural condition will grow to a height which may create a view obstruction from any other Lot.

1.16 "Lot" shall mean and refer to a plot of land as shown upon the recorded subdivision map of the Project, and to all Improvements, including the Residence, constructed thereon. Only those plots of land which are designed and intended for the construction of a Residence and ownership by an individual Owner shall be deemed Lots. Lot shall not mean or refer to any parcel of land owned in fee by the Association as Association Property.

1.17 "Member" shall mean and refer to every person or entity who holds membership in the Association, as more particularly set forth in the Article herein entitled "The Association," and shall be synonymous with the term Owner.

1.18 "Merchant Builder" shall mean and refer to any person or entity identified herein or in any notice of annexation which has or will annex real property to the Project for the purpose of developing and improving such property for the sale or lease of residences to the general public; provided, however, that the term Merchant Builder shall not mean or refer to Declarant, or its successors. Merchant Builder shall be vested with all rights, responsibilities, benefits and burdens accorded Merchant Builders in the Association Management Documents. Declarant hereby

reserves the right, in its sole and absolute discretion, to designate one or more Merchant Builders during the course of development of THE VILLAS ON VICTORIA.

1.19 "Mortgage" shall mean and include any mortgage or deed of trust, or other conveyance of a Lot (or other portion of the Project) to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance. The term Deed of Trust, when used herein, shall be synonymous with the term Mortgage.

1.20 "Mortgagee" shall mean and refer to a person or entity to whom a Mortgage is made, and shall include the beneficiary of a Deed of Trust or the vendor under an installment land sales contract, as the case may be, and the assignees of a Mortgagee, beneficiary or vendor.

1.21 "Mortgagor" shall mean and refer to a person or entity who mortgages his or its property to another, i.e., the maker of a Mortgage, and shall include a trustor of a Deed of Trust.

1.22 "Notice and Hearing" shall mean and refer to written notice and the opportunity for a hearing before the Board or the Architectural Control Committee of the Association, as applicable, or other tribunal appointed by the Board in the manner provided in the By-Laws, at which the affected Owner shall have an opportunity to be heard in the manner provided herein and in the By-Laws.

1.23 "Notice of Annexation" shall mean and refer to that certain instrument utilized to annex all or any portion of the Annexation Property, in accordance with the provisions of this Declaration, thereby subjecting said subsequent Phase to the provisions of this Declaration and to the jurisdiction of the Association.

1.24 "Owner" shall mean and refer to the record Owner, or Owners if more than one (1), or the purchaser under an installment land sales contract of fee simple interest to, or an undivided interest in, any Lot in the Project. The term Owner shall include Declarant and any Merchant Builders. The foregoing does not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation.

1.25 [Intentionally Deleted.]

1.26 [Intentionally Deleted.]

1.27 "Project" shall mean and refer to the Project and to all Improvements, including the Residences, constructed thereon, the Association Property and all Annexation Property which is made subject to this Declaration in accordance with the applicable provisions of this Declaration.

1.28 "Residence" shall mean and refer to the individual dwelling and the related Improvements which are constructed upon a separate Lot and which are designed and intended for use and occupancy as a single family residence.

1.29 "Rules and Regulations" shall mean and refer to the Rules and Regulations adopted by the Board pursuant to the By-Laws or this Declaration, as they may be amended, from time to time.

1.30 "Tentative Map" shall mean and refer to the plan for THE VILLAS ON VICTORIA approved by the City Council of the City of Cathedral City on _____, as the same may be amended from time to time.

1.31 Application of Definitions. The aforesaid definitions shall be applicable throughout this Declaration, and to any supplements or amendments hereto, including, but not limited to, any Notices of Annexation filed or recorded pursuant to the provisions of this Declaration, unless otherwise indicated or the context shall prohibit such application.

ARTICLE 2 INTRODUCTION

2.1 General Plan or Development. THE VILLAS ON VICTORIA was approved by the City of Cathedral City under a Tentative Map approved by the City Council. The Tentative Map contemplate the development of approximately three (3) single family attached Residences, together with various improvements to be owned, managed and maintained by the Association. However, the Tentative Map mandates that THE VILLAS ON VICTORIA be owned, operated, managed and maintained as a planned residential development subject to the Protective Covenants of this Declaration. In addition, all Owners of Residences within the Tentative Map shall become Members of the Association. Article 16 herein details the procedures for the annexation of additional properties within the Tentative Map to the scheme of this Declaration.

2.2 Membership in Association. As more particularly set forth in this Declaration, each Owner of a Lot in the Project shall automatically become a Member of the Association, and shall be obligated for the payment of Assessments to the Association. In addition, each Owner, his family members, lessees, tenants, guests and invitees, will be entitled to the use and enjoyment of the Association Property within the Project, in accordance with this Declaration, the By-Laws and Rules and Regulations adopted by the Board.

2.3 Annexation of Subsequent Phases. At such time as subsequent Phases are developed, if ever, Declarant and Merchant Builders shall annex such Phases to the Project in accordance with the provisions of the Article herein entitled "Annexation of Additional Property."

2.4 Development Control: Reservation of Rights. Nothing in this Article or elsewhere in this Declaration shall limit the right of Declarant and Merchant Builders: (a) to complete construction of any Improvements in the Project, (b) to redesign or otherwise alter the style, size, color or appearance of any Improvements in any portion of the Project owned by them, (c) to refurbish and construct additional Improvements on any portion of the Project owned by them, (d) to subdivide, re-subdivide, grade or re-grade any portion of the Project and the Annexation Property owned by them, and (e) to otherwise control all aspects of constructing the Improvements in the Project, of marketing and conveying Lots in the Project, and establishing the Project as a balanced residential community. In furtherance thereof, Declarant hereby reserves, unto itself, any Merchant Builders and their respective successors and assigns, the following:

a. Nonexclusive easements for access, ingress and egress over the Association Property as reasonably necessary for construction, display, maintenance, sales and exhibit purposes in connection with the construction, sale and lease of Lots within the Project and the Annexation Property.

b. Nonexclusive easements on, over and across any portions of the Project which consist of private streets, private drive, sidewalks and walkways for the purpose of ingress, egress and accommodation of vehicular and pedestrian traffic to and from the Project and the Annexation Property.

c. The exclusive right to maintain one or more sales (and administrative) offices, model complexes, interior design and decorator centers, and parking areas for employees, agents and prospective buyers;

d. The exclusive right to place signs, flags, banners, billboards or other forms of advertising on any portion of the Project owned or controlled by Declarant and Merchant Builders; and

e. A nonexclusive right to utilize the Association Property and any unassigned open parking areas, if any, in connection with its sales and marketing programs.

Declarant and Merchant Builders, in exercising easement rights created and reserved herein, shall repair any damage to complete any restoration of the Association Property or elsewhere within the Project which results from or is caused by Declarant's construction, marketing, sale and other activities within the Project within a reasonable time after the occurrence of such damage or restoration, and provided further that the rights created and reserved herein in favor of Declarant, its successors and assigns, shall not unreasonably interfere with the rights of the Members in the reasonable use and enjoyment of the Project. Declarant and Merchant Builders shall be responsible for all costs of any kind associated with such use by Declarant or Merchant Builders.

The rights and reservations of Declarant and Merchant Builders set forth herein shall terminate upon the earlier to occur of: (1) the fifteenth (15th) anniversary of the first close of escrow for the sale of a Lot in the Project; or (2) the sale by Declarant and Merchant Builders of all Lots within the Project; provided, however, in no event shall said rights terminate prior to the exoneration of any bond, set aside letter or other security device in favor of the Association described in the Article herein entitled "Enforcement of Bonded Obligations."

2.5 Purpose of Article. The purpose of this Article is merely to describe the proposed general plan of development for the Project. Without limiting the generality of the foregoing, nothing in this section or elsewhere in this Declaration shall limit the right of Declarant or Merchant Builders to complete construction of the Project, to alter same or to construct such additional Improvements as Declarant shall deem advisable prior to the completion and sale of all Lots in the Project. Declarant may assign any or all of its rights under this Declaration to any successor to all or any part of Declarant's interest in the Project by an express written assignment recorded in the Office of the County Recorder.

ARTICLE 3
RESERVATION OF EASEMENTS AND OTHER
PROPERTY RIGHTS IN THE ASSOCIATION PROPERTY

3.1 Amendment to Eliminate Easements. As long as Declarant is an Owner or has an interest in any portion of the Annexation Property, this Declaration cannot be amended to modify or eliminate any easements created, established and reserved herein in favor of Declarant without the prior written approval of Declarant, and any attempt to do so shall have no effect. Any attempt to modify or eliminate the easements created, granted and reserved herein shall likewise require the prior written approval of Declarant and the City.

3.2 Owners' Descents. Every Owner and to the extent permitted by such Owner, such Owner's family, guests, invitees, tenants and lessees, shall have a nonexclusive right and easement of access, use and enjoyment in and to the Association Property. Said right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the limitations set forth in Sections 3.3 and 8.13 below.

3.3 Limitations on Owners' Easement Rights. The rights and easements of access, use and enjoyment set forth in Section 3.2 hereinabove shall be subject to the provisions of this Declaration, including, but not limited to, the following:

a. The right of the Association to reasonably limit the number of guests of Owners using the Association Property and facilities thereon;

b. The right of the Association to establish and enforce reasonable Rules and Regulations pertaining to the use of the Association Property;

c. The right of the Association, in accordance with its Articles, By-Laws and this Declaration, to borrow money with the assent of sixty-seven percent (67%) of the voting power of the Association, excluding Declarant and any Merchant Builders, and/or to Mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, for the purpose of improving or repairing the Association Property and related facilities;

d. The right of the Association to suspend the voting rights and rights and easements of any Member, (and the persons depriving such rights and easements from any Member) to use and enjoy any recreational amenities, if any, on the Association Property for the period during which any Assessment against such Member's Lot remains unpaid and delinquent; and after Notice and Hearing, to impose monetary penalties or suspend such use rights and easements for a period not to exceed thirty (30) days for any noncontinuing violation of this Declaration or Rules and Regulations, it being understood that any suspension for either nonpayment of any Assessments or breach of such Rule shall not constitute a waiver or discharge of the Member's obligations to pay Assessments as provided herein;

e. Subject to the terms and provisions of the Article herein entitled "Mortgagee Protections," the right of the Association to dedicate or transfer all or any part of the Association Property to any public agency, private party, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless: (1) an instrument approving said dedication or transfer is signed by two authorized officers of the Association attesting that Owners representing at least sixty-seven percent (67%) of the voting power of the Association, excluding Declarant, approved such action and is recorded in the Office of the County Recorder, and (2) a written notice of the proposed dedication or transfer is sent to every Owner not less than fifteen (15) days nor more than thirty (30) days in advance; provided, however, that the dedication or transfer of easements for utilities or for other public purposes consistent with the intended use of the Association Property shall not require the prior approval of the Members of the Association;

f. The right of Declarant and Merchant Builders (and their respective sales agents, representatives, customers and prospective purchasers) to the nonexclusive use of the Association Property and facilities thereon without charge for sales, display access and exhibit purposes related to selling, marketing, showing and otherwise disposing of Lots in the Project, which right Declarant hereby reserves. Such use shall not unreasonably interfere with the rights of enjoyment of other Owners as provided herein;

g. The right of the Association, acting by and through its Architectural Control Committee, to enact uniform and reasonable Architectural Standards (as described in the Article herein entitled "Architectural Controls");

h. The right of Declarant and Merchant Builders to designate additional Association Property pursuant to the terms of the Article herein entitled Annexation of Additional Property;

i. The right of Declarant and Merchant Builders to exercise all rights and reservations of rights set forth in this Declaration.

j. The right of the Association to perform and exercise its duties and powers as set forth herein;

k. Other rights of the Association, the Architectural Control Committee, the Board, the Owners and Declarant with respect to the Association Property as may be provided for in this Declaration;

l. The right of Declarant and Merchant Builders to grant and transfer easements on, over and across all portions of the Project and the Annexation Property for the development, installation, construction and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities, as shown on any recorded subdivision map covering the Project, and as may be reasonably necessary for the proper maintenance, development and conveyance of Lots and/or Association Property; and

m. Any limitations, restrictions or conditions affecting the use, enjoyment or maintenance of the Association Property imposed by Declarant or by the City, or other governmental agency having jurisdiction to impose any such limitations, restrictions or conditions, including, but not limited to, the rights of the City or such other governmental agency having jurisdiction to use their vehicles or appropriate equipment over those portions of the Association Property designed for vehicular movement to perform municipal functions or emergency or essential public services.

3.4 Delegation of Association Property Use Rights. Any Owner who resides within the Project may delegate his rights of use and enjoyment to the Association Property to the members of his immediate family and any other persons residing within his Residence. In the event an Owner has rented or leased his Residence, his rights of use and enjoyment to the Association Property shall be automatically delegated to his tenants or lessees for the duration of their tenancy, and the Owner shall forfeit any rights of use and enjoyment to the Association Property (except those portions reasonably necessary to access said Owner's Lot to perform normal functions of a landlord) for the duration of such tenancy. With respect to an installment land sales contract, the seller under the contract shall be deemed to have delegated his rights of use and enjoyment to the Association Property to the purchaser under the contract.

3.5 Easements for Public Utilities. All Lots in the Project shall be subject to permanent, nonexclusive easements for public utility purposes in favor of the City. Such easements shall extend approximately six feet (6') into the Lot, as measured from the right-of-way, and are shown on the recorded subdivision map for Tract 30523. The easements are intended to establish the right to install, maintain, inspect, repair and replace, as necessary, electricity lines, transformers and/or service junction boxes, telephone lines, cable television lines, street light standards, mailboxes, fire hydrants, utility meters or other equipment designed to serve the Project.

3.6 Easements for Public Services. In addition to the foregoing easements over the Association Property, there are hereby created, established and granted easements for public services, including, but not limited to, the right of police, fire, ambulance and other public services to enter upon any part of the Association Property for purposes of serving the health and welfare of all Owners in the Project.

3.7 Easements for Utilities. The rights and duties of the Owners of Lots within the Project with respect to sanitary sewer, water, electricity, gas, television cable (or CATV service) and telephone lines, and other facilities, shall be governed by the following:

a. Each respective utility company shall maintain all utility facilities and connections on the Project owned by such utility company; provided, however, that if any company shall fail to do so, it shall be the obligation of each Owner to maintain those facilities and connections located upon such Owner's Lot and it shall be the obligation of the Association to maintain those facilities and connections located upon the Association Property;

b. Wherever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project and it becomes necessary to gain access to said connections, cables and/or lines through a Lot owned by someone other than the Owner of the Lot served by said connections, cables and/or lines, the Owner of the Lot served by said connections, cables and/or lines shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon such other Lot or to have the utility companies enter upon such other Lot to repair, replace and generally maintain said connections, cables and/or lines. In the event that any damage shall be proximately caused by such entry, said Owner or utility company shall repair the same at its respective expense;

c. Whenever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project, and said connections, cables and/or lines serve more than one (1) Lot, the Owner of each Lot served by said connections, cables or lines shall be entitled to the full use and enjoyment of such portions of same as service his Lot;

d. In the event of a dispute between Owners respecting the repair or rebuilding of the aforesaid connections, cables and/or lines, or the sharing of the cost thereof, upon written request of one (1) of such Owners addressed to the Association the matter shall be submitted to the Board who shall decide the dispute, and the decision of the Board shall be final and conclusive on the Owners;

e. Easements over the Project for the installation and maintenance of electric and telephone lines, water, gas, drainage and sanitary sewer connections and facilities, and television antenna cables and facilities, all as shown on the recorded map of the Project and as may be hereafter required or needed to service the Project, are hereby reserved by Declarant, together with the right to grant and transfer the same; and

f. Each Lot is granted to an Owner subject to easements for utility installation and maintenance, storm drains and other purposes, as shown on the recorded subdivision map for the Project. Any installation or construction of landscaping or structures within said easement areas may be done only in accordance with the terms, conditions and provisions of said easements.

3.8 Easements Over Association Property. Declarant hereby expressly reserves for the benefit of the Association, acting through its Board, an easement on, over, across and through the Association Property (including, without limitation, any Association Property located outside the boundaries of the Project) for inspection, maintenance, repair and replacement of Improvements for which the Association is responsible. Such easement shall include the right to enter a Lot to inspect, repair and maintain any portion of the Association Property. Subject to the procedures described in the Article herein entitled "Architectural Control," no Owner shall interfere with the exercise by the Association of its rights pursuant to the easement described herein. No Owner shall alter or remove any Improvements within the Association Property.

3.9 Easements For Maintenance of Retention Basins. All property in the Project and the Annexation Property, including all Association Property, Lots and rights-of-way, shall be subject to permanent, nonexclusive easements in favor of the City for the purpose of allowing City vehicles to inspect and maintain the retention basins within the Project. Declarant and the Association hereby covenant to indemnify, protect and defend the City and its elected and appointed officers, employees and agents, and hold them free and harmless from any claim, demand or judgment for personal injury, wrongful death and/or property damage arising out of the City's inspection and maintenance of the retention basins, including damage to the rights-of-way from wear and tear caused by City vehicles which are in excess of the weight that such public rights-of-way are built to sustain.

3.10 Easements for Drainage and Irrigation Water Lines. There are hereby created and reserved over each Lot in the Project, easements for drainage according to the patterns for drainage created by the approved grading plans for the Project, as well as according to the actual, natural and existing patterns for drainage, and easements for the placement of subterranean water lines over each Lot in the Project as required for the irrigation and/or drainage system. In the event the approved grading plans make provisions for "cross drainage," whereby water runoff from one (1) or more contiguous Lots drains across another Owner's Lot, all Lots affected by such "cross-Lot drainage" shall be noted on the approved grading plans and on "as-built" plans on file in the principal office of the Association. Each Owner covenants and agrees that he shall not obstruct or otherwise interfere with said drainage patterns of waters from adjacent Lots or Association Property in the Project over his Lot or, in the alternative, that in the event it is necessary and essential to alter said drainage pattern for the protection and use of his Lot, such Owner shall make provision to preserve proper drainage according to the approved grading plans for the Project. Easements created and reserved herein shall at all times be subject to the Protective Covenants created in this Declaration, and such Rules and Regulations as may be adopted, from time to time, by the Board.

3.11 Easements for Master Antennae, Cable Television, Internet, and Intranet Cabling, and Alarm System Cabling. There are hereby reserved for the benefit of Declarant and any Merchant Builder, and its successors and assigns, nonexclusive easements of access, ingress and egress to the Project for purposes of installation, operation, maintenance, repair, inspection, replacement and removal of master antennae, cable television service lines, internet and intranet cabling, alarm system cabling and all related facilities and equipment. Such easements shall be freely transferable to any other person or entity for the purpose of providing such services. All such master antennae, cable television service lines and alarm system cabling shall remain the property of Declarant or Merchant Builders, or their successors and assigns. Declarant hereby further grants a ten foot (10') easement in favor of the Coachella Valley Water District (Bureau of Reclamation) for an irrigation line in the landscape setback on Avenue 49. The Association shall be responsible for the maintenance of the irrigation line, at the election of Coachella Valley Water District. The exercise of all rights reserved hereunder shall not unreasonably interfere with the reasonable use and enjoyment of the Project. Declarant, or the respective Merchant Builder, or their successors and assigns, shall be responsible for any damage in any way arising out of, or in connection with, the rights and activities reserved hereunder.

3.12 Easements For Maintenance of the Association Property. There is hereby created, granted and reserved a nonexclusive easement in favor of the Association for ingress, egress and access on, over and across all portions of

the Project as reasonably required by the Association to perform its maintenance obligations set forth in this Declaration. In the event it becomes necessary for the Association to enter upon any Lot for purposes of: (1) maintaining the Association Property; or (b) bringing an Owner and/or his Lot into compliance with this Declaration, in accordance with the provisions set forth herein, the Association, and its duly authorized agents and employees, shall have the right, after reasonable notice to the Owner and at a reasonable hour of the day, to enter upon such Owner's Lot for the performance of such work. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by such entry, the Association shall repair the same at its expense. Notwithstanding the foregoing, no notice of entry is required for maintenance purposes of the Association Property in the Project in the event of an emergency.

3.13 Easement for Maintenance of Front Yard Landscaping. There is hereby created, granted and reserved a nonexclusive easement in favor of the Association for ingress, egress and access, on, over and across all portions of each Lot in the Project for front yard landscape and irrigation maintenance which may be, at the Association's election, performed by the Association on each Lot.

3.14 Easements for Clustered Mailboxes. In order to comply with the various requirements of the City and the United States Postal Service, kiosk-style mailboxes may be installed on certain Lots within the Project. Easements are hereby created on and over the affected Lots in favor of all Owners and the United States Postal Service for delivery and deposit of mail, and for reasonable access to and from such mailboxes.

3.15 Easements Over Sidewalks. Declarant hereby covenants for itself, and its successors and assigns, that each and every Owner, his tenants and invitees, shall have appurtenant nonexclusive reciprocal easements on, over and across all sidewalks located on portions of Lots, if any, immediately adjacent to streets within the Project for pedestrian access, use and enjoyment.

3.16 Public Bicycle, Golf Cart and Pedestrian Trails. There is hereby reserved to Declarant, together with the right to grant and convey the same, an easement for public ingress and egress over any bicycle, golf cart, pedestrian, equestrian or other trails depicted on the recorded final map(s) of or for the Project, or other instrument of record. The reservation of this easement shall not imply any right of public use of the Association Property or Improvements thereon.

3.17 Reservation of Construction Rights. In order that the Project be completed and established as a planned residential community, nothing in this Declaration shall limit the right of Declarant or Merchant Builders to: (a) complete construction of any Improvements in the Project; (b) redesign or otherwise modify the Improvements owned by Declarant or Merchant Builders; (c) construct such additional Improvements on any portion of the Project owned by Declarant or Merchant Builders; or (d) otherwise control all aspects of designing the Project or selling or leasing of Lots in the Project. Furthermore, nothing in this Declaration shall limit the right of Declarant to establish additional licenses, easements and right-of-way in favor of Declarant, utility companies or others as may, from time to time, be reasonably necessary for the development of the Project. The foregoing rights established and reserved by Declarant shall be subject only to the applicable regulations and requirements of the City, the County and the DRE. The foregoing rights may be assigned to any successor to all or part of Declarant's or a Merchant Builder's interest in the Project by an express assignment recorded with the County Recorder. Such rights shall terminate at such time as Declarant or any Merchant Builder no longer owns a Lot in the Project or within the Annexation Property.

3.18 Title to the Association Property.

a. Transfer of Title to Association Property. Declarant hereby covenants, for itself, its successors and assigns, that it will convey to the Association fee simple title to, or a nonexclusive easement in, the Association Property, free and clear of all liens and encumbrances, subject to the Protective Covenants set forth in this Declaration or which are of record at the time of the conveyance. Declarant will similarly convey to the Association, from time to time, in fee simple or by easement, any Association Property located in the Annexation Property which is designated in this Declaration or in any Notice of Annexation for conveyance to the Association.

b. Completion of Association Property. In the event that Improvements proposed to be constructed on any portion of the Association Property so annexed to the Project have not been completed, as evidenced by a "Notice of Completion" recorded in the Office of the County Recorder, then the completion of such Improvements shall be assured in accordance with Section 11018.5 of the California Business and Professions Code, or any successor or companion statute.

c. Commencement of Association Responsibilities. The Association's responsibility to maintain the Association Property conveyed to the Association shall commence concurrently with the commencement of Regular Assessments in such Phase. The Association shall not interfere with the performance of any warranty or other contractual maintenance obligations which the contractor or subcontractors of Declarant or Merchant Builders may be bound to perform. Notwithstanding the foregoing, maintenance performed by such contractors or subcontractors of

Declarant or any Merchant Builder shall not serve to postpone the commencement of Regular Assessments in such Phase. The Association shall not interfere with the performance of any warranty or other contractual maintenance obligations which the contractor or subcontractors of Declarant or Merchant Builders may be bound to perform. Notwithstanding the foregoing, maintenance performed by such contractors or subcontractors of Declarant or any Merchant Builder shall not serve to postpone the commencement of Regular Assessments pursuant to this Declaration, nor entitle an Owner to claim any offset or reduction in the amount of such Regular Assessments.

d. Character of Improvements to Association Property. The nature, design, quality and quantity of all Improvements to the Association Property shall be determined by Declarant, in its sole discretion. The Association shall be obligated to accept title to the Association Property and undertake all maintenance responsibilities for the Association Property when title is conveyed and maintenance responsibilities are tendered by Declarant, pursuant to Subparagraphs (a) and (c) above.

e. Disputes. In the event that a dispute arises between Declarant and the Association with respect to the nature, design, quality or quantity of the Improvements, or the acceptance of maintenance responsibilities therefor, resolution of the dispute shall be accomplished in accordance with the procedures for resolution of disputes set forth in Article 19 below.

3.19 Reservation of Association Property Easements. Declarant hereby reserves the right to grant nonexclusive easements over the Association Property in favor of Merchant Builders and the Owners of any Annexation Property which is annexed to the Project pursuant to this Declaration, and, upon the recordation of a Notice of Annexation affecting the Annexation Property, the Owners described in this Declaration shall automatically obtain nonexclusive easements over all Association Property which is a part of said Annexation Property.

ARTICLE 4 THE ASSOCIATION

4.1 Membership. Every person or entity who or which is an Owner (including Declarant and Merchant Builders) shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot in the Project merely as security for the performance of an obligation. All memberships in the Association shall be appurtenant to the Lot owned by each Member, and memberships in the Association shall not be assignable, except to the person or entity to whom the title to the Lot has been transferred. Ownership of such Lot shall be the sole qualification for membership in the Association. The memberships in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of title to said Lot, and then only to the purchaser or Mortgagee of such Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected in the books of the Association.

4.2 Classes of Membership. The Association shall have two (2) classes of voting membership, as follows:

Class A. Class A Members shall be all Owners, initially with the exception of the Declarant and any Merchant Builders, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Members shall be Declarant and any Merchant Builders. Each Class B Member shall be entitled to three (3) votes for each Lot owned by Declarant or a Merchant Builder. As to each Phase annexed to the Project, the Class B membership shall terminate and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

a. The second (2nd) anniversary of the first close of escrow for the sale of a Lot in the Project by Declarant or any Merchant Builder; or

b. The fourth (4th) anniversary of the first close of escrow for the sale of a Lot.

4.3 Special Voting Procedures for Election of the Board. The Declarant shall be entitled to solely elect a majority of the members of the Board until the first to occur of the following events:

a. The election of the Board immediately following the sale by Declarant and/or Merchant Builders of three (3) Lots in the Project to members of the public; or

b. The date which is the sixth (6th) anniversary of the first close of escrow for the sale of a Lot.

4.4 Voting Rights. All voting rights shall be subject to the provisions and limitations provided in this Declaration, the Articles and the By-Laws. Except as provided in the Article herein entitled "Enforcement of Bonded Obligations," and Article 5, Section 5.3, of the By-Laws, any provision of the Articles, the By-Laws or this Declaration which expressly requires the vote or written consent of a specified percentage of the voting power of the Association shall require the approval of such specified percentage of the voting power of each class of membership. Upon the termination of Class B membership, except as provided in the Article herein entitled "Enforcement of Bonded Obligation," and Article 5, Section 5.3, of the By-Laws, any provision of the Articles, the By-Laws or this Declaration which expressly requires the vote or written consent of a specified percentage of the voting power of the Association shall require the vote or written consent of the voting power of the Association, as well as the vote or written consent of the voting power of the Association residing in Members, other than Declarant.

4.5 Voting: Joint Owners. Those Members appearing in the official record of the Association as record Owners of Lots shall be entitled to notice of any meeting of Members. If there is more than one (1) record Owner of any Lot (joint Owners), all such joint Owners shall be Members of the Association and may attend any meetings of the Association, but only one (1) such joint Owner shall be entitled to exercise the vote to which the Lot is entitled. Fractional votes shall not be allowed. Joint Owners may, from time to time, designate in writing one (1) joint Owner to vote. Where no joint Owner is designated, a vote made by a joint Owner of such Lot shall be conclusively presumed to have been cast with full authority and consent of the joint Owners. In the event of a dispute among joint Owners as to how their vote shall be cast, the joint Owners shall lose their right to vote on the matter in question, and any attempt to cast a vote in those circumstances shall be disallowed by the Board. The Board shall have no jurisdiction to determine any matters relating to the entitlement of Declarant to vote, or the manner in which such vote is exercised. If one Owner casts the vote attributed to a Lot, the vote shall conclusively bind all owners of that Lot.

4.6 Adjustment of Voting Rights. The voting rights in the Association shall be adjusted on the first day of the month immediately following the first close of escrow for the sale of a Lot in each subsequent Phase of the Project.

4.7 Vesting of Voting Rights. The voting rights attributable to any given Lot in the Project, as provided for herein, shall not vest until the Assessments provided for hereinbelow have been levied by the Association against said Lot.

4.8 Suspension of Voting Rights. As more particularly set forth in the Article entitled "General Provisions," the Board shall have the authority, among other things, to suspend the voting rights of any Member to vote at any meeting of the Members for any period during which such Owner is delinquent in the payment of any Assessment, regardless of type, it being understood that any suspension for nonpayment of any Assessment shall not constitute a waiver or discharge of the Member's obligation to pay the Assessments provided for in this Declaration.

4.9 Transfer. The Association membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except as incidental to the sale of such Lot. In the event of such sale, the Association membership may only be transferred, pledged or alienated to the bona fide purchaser or purchasers of the Lot, or to the Mortgagee (or third party purchaser) of such Lot upon a foreclosure sale. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association may levy a reasonable transfer fee against new Owners (which fee shall be a Compliance Assessment chargeable to such new Owner) to reimburse the Association for the actual administrative cost of transferring the memberships to the new Owners on the records of the Association.

4.10 Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time for each meeting. Every proxy shall be revocable and shall automatically terminate upon the earliest of the following: (a) the conveyance by the Owner of his Lot; (b) the date of automatic termination, if any, specified in the proxy, but not to exceed three (3) years from the date of issuance of the proxy; or (c) eleven (11) months from the date of issuance of the proxy, if no automatic termination date is specified in the proxy. Any form of proxy or written ballot distributed to the membership of the Association shall afford an Owner the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon at the meeting for which said proxy was distributed, except it shall not be mandatory that a candidate for election to the Board be named in the proxy. A proxy or written ballot shall provide that, where the Owner specifies a choice, the vote shall be cast in accordance with that choice. In addition, the proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it shall be valid.

4.11 Record Dates. For the purposes of determining Members entitled to notice of any meeting, to vote or to exercise any other rights in respect of any lawful action, the Board may fix in advance record dates as provided in the By-Laws.

ARTICLE 5
POWERS AND DUTIES OF THE ASSOCIATION

5.1 Management Body. The Association is hereby designated as the management body of the Project. The Members of the Association shall be the Owners in the Project as provided herein, and the affairs of the Association shall be managed by the Board, as more particularly set forth in the By-Laws. The initial Board shall be appointed by the incorporator or its successor. Thereafter, the Directors shall be elected as provided in the By-Laws.

5.2 Powers. The Board, for and on behalf of the Association, shall have the right and power to do all things necessary to conduct, manage and control the affairs and business of the Association. Subject to the provisions of the Articles, the By-Laws and this Declaration, the Board shall have all general powers authorized under the California Corporations Code and California Civil Code for nonprofit, mutual benefit corporations, and shall have the following specific powers:

a. Enforce the provisions of this Declaration and all contracts or any agreements to which the Association is a party;

b. Acquire, manage, maintain, repair and replace all Association Property and Improvements located thereon, including all personal property, in a neat, clean, safe and attractive condition at all times, and to pay all utilities, gardening and other necessary services for the Association Property, all as more specifically set forth in the Article herein entitled "Repair and Maintenance;"

c. Maintain fire, casualty, liability and fidelity bond coverage, and other insurance coverage pursuant to the terms of the Article herein entitled "Insurance;"

d. Obtain, for the benefit of the Association Property, all commonly metered water, gas and electric services, refuse collection and cable (or master antenna) television service;

e. Employ and retain a professional manager and/or management company to perform all or any portion of the duties and responsibilities of the Board and engage such personnel (including attorneys and accountants) as necessary for the operation of the Project and administration of the Association;

f. Pay all taxes and special assessments which would be a lien upon the entire Project or the Association Property, and to discharge any lien or encumbrance levied against the entire Project or the Association Property;

g. Pay for reconstruction of any portion of the Association Property damaged or destroyed;

h. Delegate its authority and power to committees, officers or employees of the Association, or to a manager retained by the Association;

i. Adopt reasonable Rules and Regulations and Architectural Standards concerning the maintenance, improvement, use and/or occupancy of the Project;

j. Enter into any Lot when necessary in connection with maintenance or construction for which the Association is responsible;

k. Retain, if deemed appropriate by the Board, and pay for legal and accounting services necessary and proper for the efficient operation of the Association, enforcement of this Declaration, the Rules and Regulations and Architectural Standards, or in performing any other duties or enforcing any other rights of the Association; and

l. Perform any and all other acts and things that a nonprofit, mutual benefit corporation organized under the laws of the State of California is empowered to do, which may be necessary, convenient or appropriate in the administration of its affairs for the specific purposes of meeting its duties as set forth in this Declaration.

5.3 Duties. The Board shall perform and execute the following duties for and on behalf of the Association:

a. Own, maintain, manage and operate the Association Property, and all Improvements located thereon, for the common use and benefit of all Owners in the Project, in accordance with the provisions of this Declaration and as required by the City;

b. Provide necessary utility services, if any, for the Association Property;

c. Provide insurance coverage for the Association and its Members in accordance with the provisions of the Article hereinbelow entitled "Insurance," and in compliance with § 1365.9 of the California Civil Code, and any successor and companion statute.

d. Maintain and repair all portions of the Association Property in a neat, clean, safe, attractive and high-quality condition at all times, according to the provisions contained herein. In the event any maintenance or repairs to the Association Property are required due to the willful or negligent acts or omissions of an Owner or Owners, the Association shall levy the cost of such maintenance and repair as a Compliance Assessment against the responsible Owner(s);

e. Pay all real and personal property taxes and Assessments which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law, unless separately assessed to Owners; provided, however, that it shall be the obligation of each Owner to pay his respective share of the tax assessment levied on the Project prior to separate assessments by the Tax Assessor pursuant to the applicable provisions of the California Revenue and Taxation Code;

f. Contract for any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations and insurance which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law;

g. Cause financial statements for the Association to be regularly prepared and distributed to each Member of the Association:

(A) A pro forma operating budget for each fiscal year shall be distributed not less than 45 days nor more than 60 days before the beginning of the fiscal year consisting of at least the following:

(1) estimated revenue and expenses on an accrual basis;

(2) a summary of the Association's reserves based on the most recent reserves review or study conducted under California Civil Code §1365.5, which shall be printed in bold type and shall include the following:

(a) the current estimated replacement cost, estimated remaining life, and estimated useful life of each Major Component that the Association is obligated to maintain (collectively the "Major Components");

(b) as of the end of the fiscal year for which the study was prepared:

(i) the current estimate of cash reserves necessary to repair, replace, restore, or maintain the Major Components;

(ii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain the Major Components; and

(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 any construction or design defects and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to clause (ii). In lieu of complying with the foregoing requirements, if the Association is obligated to issue a review of its financial statement, the Association may include in the review a statement containing all of the information required by this clause;

(c) the percentage of the amount in (2)a that the amount in (2)b represents;

(3) a statement as to whether the Board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any Major Component or to provide adequate reserves for them;

(4) a general statement addressing the procedures used for the calculation establishing those reserves to defray the future repair, replacement, or additions to the Major Components; and

(5) a general statement regarding the Member's right to have copies of the minutes of meetings of the Board of Directors and how and when these minutes may be obtained.

(B) A summary of the Association's property, general liability, and, earthquake and flood insurance policies (individually and collectively referred as the "Policy" or "Policies") shall be distributed to the Members within 60 days preceding the beginning of the Association's fiscal year. The summary shall include the following information on the Policies:

- (1) the name of the insurer;
- (2) the type of insurance;
- (3) the Policy limits of the insurance; and
- (4) the amount of deductibles, if any.

The Association, as soon as reasonably practicable, shall notify its Members by first class mail if any of the Policies have been canceled and not immediately renewed or restored or if there is a significant change such as a

reduction in coverage or limits or an increase in the deductible for any Policy. If the Association receives any notice of nonrenewal of a Policy, the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

To the extent that the information required to be disclosed as described in this Section is specified in the insurance policy declaration page, the Association may meet its disclosure obligations by making copies of that page and distributing copies to all its Members.

The summary required in this Section shall contain, in at least 10-point bold-face type, the following statement:

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

(C) A balance sheet as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing for the first sale of a Lot, and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of Assessments received, and receivable, identified by the number of the Lot and the name of the person or entity assessed;

(D) An annual report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year:

- i) A balance sheet as of the last day of the Association's fiscal year;
- ii) An operating (income) statement for the fiscal year;
- iii) A statement of changes in financial position for the fiscal year; and
- iv) Any information required to be reported pursuant to Section 8322 of the California Corporations Code.

If for any reason this annual report is not prepared by a licensee of the California Board of Accountancy, said report shall be accompanied by a certificate from an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association. Notwithstanding the foregoing, in lieu of distributing the pro forma budget required hereinabove, the Board may elect to distribute a summary of the

pro forma budget to all Members with a written notice that the pro forma budget is available at a suitable location in the Project;

(E) A statement of the Association's policies and practices in enforcing its remedies against Members for nonpayment of Assessments, as set forth in the Article herein entitled "Effect of Nonpayment of Assessments: Remedies of the Association," which shall be distributed annually to the Members during the sixty (60) days period immediately preceding the beginning of the Association's fiscal year;

(F) A summary of the Association's policies and procedures for implementing the procedural requirements for alternative dispute resolution required by Section 1354 of the California Civil Code, and any successor statute;

(G) The Board shall review on a quarterly basis, the following:

- i) A current reconciliation of the Association's operating accounts;
- ii) A current reconciliation of the Association's reserve accounts;
- iii) The current fiscal year's actual reserves and expenses compared to the then current year's Association budget;
- iv) An income and expense statement for the Association's operating and reserve accounts; and
- v) The most current account statements prepared by the financial institutions where the Association maintains its operating and reserve accounts.

(H) A summary of the Association's general liability, casualty and fire and other insurance policies, which shall be distributed within sixty (60) days preceding the beginning of the Association's fiscal year, and which shall include the following information about each policy:

- i) The type of insurance;
- ii) the name of the insurer;
- iii) the policy limits; and
- iv) the deductibles for each policy.

The Association shall, as soon as reasonably practical, notify the Members by first class mail if any of the policies referred to above have lapsed, been canceled and are not immediately renewed, restored or replaced, or if there is a significant change in the terms of such policies, such as a reduction in coverage or limits or an increase in the deductible. If the Association receives any notice of non-renewal of a policy, then it shall immediately notify the Members if replacement coverage will not be in effect on the date the existing coverage will lapse. The summary of the insurance policies obtained and maintained by the Association shall be prepared in accordance with the requirements of the California Civil Code Section 1365, as the same may be amended, from time to time.

h. Cause a study of the reserve account requirements of the Project to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore or maintain is equal to or greater than one-half ($\frac{1}{2}$) of the gross Association budget for any fiscal year of the Association. The Board

shall review the reserve study annually, and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of such review. The reserve study shall consider and include, at a minimum, the requirements set forth in Section 1365(d) of the California Civil Code, as the same may be amended, from time to time;

i. Assume and payout of the Assessments provided for hereinbelow all costs and expenses incurred by the Association in connection with the performance and execution of all of the aforesaid powers and duties, and any other powers and duties the Association may assume as provided for in Section 5.4 hereinbelow;

j. Formulate, adopt and enforce such Rules and Regulations as it may deem proper for the operation of the Association Property, as more particularly described below. Notice of adoption of any such Rules and Regulations and of any change, amendment or repeal thereof, shall be given in writing to each Member and shall be on file in the principal office of the Association. In the event of any conflict between such Rules and Regulations and this Declaration, the Declaration shall prevail;

k. Enforce all applicable provisions of this Declaration, the Articles, By-Laws and such Rules and Regulations of the Association, and of all other documents pertaining to the ownership, use, management and control of the Project; and

l. Give notices in writing to the Federal Home Loan Mortgage Corporation (hereinafter FHLMC) the Federal National Mortgage Association (hereinafter FNMA), and the Government National Mortgage Association (hereinafter GNMA), and other lenders and investors participating in the financing of the sale of Lots in the Project, as required herein.

5.4 Discretionary Powers. The Board, at its option, may assume, perform and execute the following powers and duties for and on behalf of the Association:

a. Retain the services of a manager for the Project and provide such other personnel as the Association deems necessary and proper to assist in the operation of the Association and/or management of the Association Property, regardless of whether such other personnel are employed directly by the Association or otherwise;

b. Remove or replace any Improvement that extends into the Association Property under authority of an easement when access to a utility line underneath such Improvement is requested by any utility company; provided, however, that the cost shall be assessed against the Owner of the Lot involved as a Compliance Assessment if said Owner caused the Improvement to be so placed in the Association Property without legal right to do so;

c. Incur any liability or pay any costs or expenses for a single Lot or Owner thereof; provided, however, that in the event the Association does incur any such liability or pay any such costs or expenses, the amount thereof shall be specially assessed against the Owner of such Lot as a Compliance Assessment; provided further, however, that nothing herein shall permit the Association to assess the Owners for any new Improvements to the Association Property except as otherwise provided in this Declaration;

d. Subject to the limitations set forth in this Article, contract for any other material, furniture, labor, services, maintenance, repairs, structural alterations or insurance, or pay any taxes or Assessments which, in the opinion of the Board, shall be necessary or proper for the operation of the Association Property for the benefit of the Owners or for the enforcement of this Declaration;

e. Enter into a maintenance or subsidy agreement with Declarant, at Declarant's sole discretion, or any Merchant Builder with Declarant's Consent, to reduce the financial obligations of Owners in the Project for Assessment; and

f. Unless otherwise provided by Section 1354 of the California Civil Code, and any successor statute, institute, defend, settle, or intervene in litigation, arbitration, mediation or administrative proceedings in its own name as the real property and interest and without joining with it the individual Owners in matters pertaining to:

- (1) Enforcement of the Association Management Documents;
- (2) Damage to the Association Property; and
- (3) Damage to Residences which arise out of or is proximately related to damage to the Association Property.

5.5 Limitations on Contracts. Except as otherwise provided herein, no contract entered into by the Association, or the Board acting for and on behalf of the Association, may run for a term longer than one (1) year, except with the vote or written assent of a majority of the voting power of the Association and a majority of the votes residing in Members, other than the Declarant.

5.6 Delegation of Duties. In the event that the Association shall delegate any or all of its duties, powers or functions to any person, corporation or firm to act as manager, neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

5.7 Right of Entry for Emergency. The Board, any person authorized by the Board or any Owner may enter any Lot in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association shall repair the same at its expense.

5.8 Right of Entry for Repairs. The Board, or any person authorized by the Board, shall have the right to enter, upon reasonable notice, any Lot to effect necessary repairs which the Owner has failed to perform or which are necessary in connection with the repairs to the Association Property or an adjoining Lot. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association shall repair the same at its expense.

5.9 Limitations on Board Action. The Board shall be prohibited from taking any of the following actions, except with the written assent, by vote at a meeting of the Association, or by written ballot without a meeting pursuant to California Corporations Code Section 7513, or any successor statute, of a simple majority of the votes residing in Members, other than the Declarant and Merchant Builders, constituting a quorum consisting of more than fifty percent (50%) of the voting power of the Association residing in Members other than Declarant and Merchant Builders:

a. Entering into a contract with a third person, wherein the third person will furnish goods or services for the Association Property or the Association for a term longer than one (1) year, with the following exceptions:

- (1) A management contract, if applicable;
- (2) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;
- (3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the policy permits for short-rate cancellation by the insured;

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

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

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

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

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

d. Paying compensation to Directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying on the business of the Association; or

e. Filling a vacancy on the Board created by the removal of a Director.

5.10 Licenses, Easements and Rights-of-Way. The Board, for and on behalf of the Association, is authorized and empowered to grant such licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains, roadways, and other public utility purposes over those portions of the Association Property upon which no building or other structure has been erected as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Association Property or for the preservation of Members to this section. Such fines or penalties may only be imposed by the Board after Notice and Hearing, as set forth in the By-Laws. All fines and penalties are personal obligations of the Owner against whom such fines and penalties are imposed, and are not enforceable by lien.

ARTICLE 6 ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessment. The Declarant or any Merchant Builder, for each Lot owned within the Project, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association; (a) Regular Assessments; (b) Special Assessments; (c) Compliance Assessments, including, but not limited to, costs incurred by the Association in the repair of damage to the Association Property for which such Owner was responsible and costs incurred by the Association in bringing such Owner and his Lot into compliance with this Declaration; (d) Reconstruction Assessments; and (e) such other assessments as the Association may periodically establish. The Regular and Special Assessments, together with a reasonable late charge as may, from time to time, be established by the Board in accordance with California law, interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge against and a continuing lien upon the Lot against which each such Assessment is levied, and shall also be the personal obligation of the Owner of such property at the time when the Assessment came due.

6.2 Purpose of Regular Assessments: Levy and Collection. The Regular Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Project and to maintain, repair, replace and improve the Association Property, and any other Improvements or areas which the Association is obligated to maintain, as provided herein. The Association, by and through its Board, shall levy and collect Assessments from the Owner of each Lot in the Project in an amount sufficient to cover all of the Common Expenses incurred by the Association in connection with the performance and execution of the powers and duties set forth in this Declaration, the By-Laws and Articles. In connection therewith, the Association shall not impose or collect assessments, penalties or fees that exceed the amount reasonably necessary for the purpose or purposes for which they were levied. The percentage rate for the Assessments levied by the Association shall be adjusted at such time as the annexation of an additional Phase becomes effective.

6.3 Regular Assessments - Basis. Except as provided hereinbelow, Regular Assessments payable to the Association shall be assessed equally against all Owners of Lots in the Project. Each Owner's proportionate share of the Common Expenses for any fiscal year of the Association shall be a fraction, the numerator of which shall be the number of Lots owned by such Owner, and the denominator of which shall be the total number of Lots in the Project which are subject to Assessment. Until the first day of the fiscal year of the Association immediately following the first close of escrow for the sale of a Lot in the Project to an Owner, the maximum total Regular Assessment shall be as set forth in the Association budget reviewed and approved by the DRE. Subject to the limitations imposed by California Civil Code Section 1366, as the same may be amended, from time to time, the Board may increase Regular Assessments subject to the following limitations:

a. Increases in Regular Assessments for any fiscal year which are less than or equal to twenty percent (20 %) above the Regular Assessment against Lots for the immediately preceding fiscal year may be approved by the Board, provided that the Board shall: (1) comply with the provisions set forth in Section 1365(a) of the California Civil Code with respect to the distribution of the pro forma operating budget of the Association for the forthcoming fiscal year; or (2) obtain the approval of Members, constituting a quorum, casting a majority of the votes at a meeting or an election of the Association conducted in accordance with California Corporations Code Sections 7610, et seq. and Sections 7613, et seq. For purposes of this section, a quorum means more than fifty percent (50%) of the Members of the Association; and

b. Increases in Regular Assessments for any fiscal year which are greater than twenty percent (20%) above Regular Assessments for the immediately preceding fiscal year may be approved by the Board only after the Board obtains the affirmative vote of Members pursuant to the provisions set forth in Subsection a.(2) above.

So long as Declarant and/or Merchant Builders are offering Lots for sale pursuant to a Final Subdivision Public Report, the Regular Assessment may not be decreased by ten percent (10%) or more without the express written consent of the Declarant and the DRE. Following the annexation of a subsequent Phase pursuant to the provisions set forth in this Declaration, Regular Assessments may be automatically increased (or decreased) for all Lots in the Project as set forth in the Association budget. Such adjustment, if any, shall occur on the first day of the month following the first close of escrow for the sale of a Lot in said Phase without any approval of the Members of the Association to the amount recommended by the DRE in connection with the DRE's review and processing of the Association budget for such Phase.

6.4 Special Assessments. In any fiscal year the Board may not, subject to the limitations of California Civil Code Section 1366, without the vote or written assent of a majority of those Owners constituting a quorum (which shall mean more than fifty percent [50 %] of Owners of the Association) casting a majority of affirmative votes at a meeting or election of the Association conducted in accordance with Section 7510, et seq., and 7613 of the Corporations Code, levy Special Assessments to defray the costs of any action or undertaking on behalf of the Association which, in the aggregate, exceed five percent (5 %) of the budgeted gross expenses of the Association for that fiscal year. The five percent (5 %) limitation shall not apply to increases in Special Assessments related to an emergency situation, as

described in Section 6.5 below. Special Assessments shall be levied among all Owners and their Lots in the same proportions as their Regular Assessments.

6.5 Emergency Situations. The limitations set forth in Sections 6.3 and 6.4 above shall not limit increases in Regular Assessments or Special Assessments which may become necessary for emergency situations. For purposes of this section, an emergency situation is anyone of the following:

- a. An extraordinary expense required by an order by a court;
- b. An extraordinary expense for the maintenance or repair of Association Property that is necessary to remedy any dangerous condition in the Project that represents a threat of damage or injury to any person or property; and
- c. An extraordinary expense necessary to repair or maintain the Association Property, or any portion thereof, that could not have been reasonably anticipated by the Board at the time the most recent Association budget was prepared. Prior to the imposition or collection of an Assessment pursuant to this Subsection c., the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved, and why the expense was not or could not have been reasonably foreseen in the budget process. The resolution shall be distributed to the Members with the notice of Assessment.

6.6 Compliance Assessments. A Compliance Assessment is a charge against a particular Owner directly attributable to, and/or reimbursable by, the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, or to suspend or condition such Owner's right to use any portion of the Association Property. Any suspension or conditional suspension shall be for a period of not more than thirty (30) days for any continuing infraction, but in the case of the continuing infraction, including non-payment of any assessment after the same becomes delinquent, may be imposed for so long as the violation continues. Compliance Assessments shall not include any late payment penalties, interest charges or costs, including attorneys' fees incurred by the Association in the collection of annual or Special Assessments.

6.6.1 Limitation on Assessments. Notwithstanding any other provision in this declaration to the contrary, the board may not (1) impose a regular assessment for any fiscal year more than 20 percent above the regular assessment for the association's preceding fiscal year, or (2) impose special assessments that in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of a majority of the votes at a meeting of the members at which a quorum is present. The foregoing restrictions on assessment increases do not apply to increases necessary for emergency situations. An emergency situation is any of the following:

- (i) An extraordinary expense required by an order of court.
- (ii) An extraordinary expense necessary to repair or maintain the project or any part of it that the association is responsible to maintain when a threat to personal safety on the property is discovered.
- (iii) An extraordinary expense necessary to repair or maintain the development or any part of it that the association is responsible to maintain that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget required under California Civil Code §1365, provided that before the imposition or collection of any assessment under this subparagraph the Board must pass a resolution containing written findings as to the necessity of the extraordinary

expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the members with the notice of assessment.

The Association shall provide notice by first-class mail to the Members of any increase in regular or special assessments not less than 30 days nor more than 60 days before the due date of the increased assessment.

6.7 Date of Commencement of Regular Assessments: Due Dates. The Regular Assessments provided for herein shall commence on the first day of the month following the close of escrow for the first sale of a Lot in a Phase. Nothing herein shall prevent Declarant from commencing Regular Assessments against Lots in future Phases on a voluntary basis. Regular Assessments shall be adjusted according to the number of months remaining in the fiscal year, as set forth in the By-Laws. The Board shall fix the amount of the Regular Assessment against each Lot at least thirty (30) days in advance of each Regular Assessment period. The Association shall provide notice by first class mail to the Owner of any increase in Regular Assessments of the Association not less than thirty (30) days nor more than sixty (60) days prior to the increased Regular Assessment becoming due.

Declarant, Merchant Builders and any other Owner shall be exempt from the payment of those portions of the Regular Assessments that are for the purpose of defraying expense and reserves directly attributable to the existence of Improvements within the Association Property that have not been completed or placed into use by the Association at the time Assessments commence. This exemption shall be in effect until the earlier to occur of: (a) the recordation of a Notice of Completion of the Association Property Improvements; or (b) the placement of such Improvements into use.

Notwithstanding any other provisions of the Association Management documents regarding the term and termination of contracts with Declarant for providing services to the Association, Declarant and/or any Merchant Builder may enter into a written maintenance and/or subsidy agreement with the Association under which Declarant and/or any Merchant Builder shall pay all or any portion of the Common Expenses, and perform all or any portion of the Association's maintenance responsibilities in exchange for a temporary suspension of Regular Assessments. Such agreement shall extend for a term and beyond such conditions as are approved by the DRE, and may require Owners to reimburse Declarant, through the Association, for a portion of the costs expended in the satisfaction of Declarant's obligations pursuant to such agreement.

6.7.1 Notwithstanding the provisions of this Article 6, any Lot having no structural improvements for human occupancy shall be exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the structural improvement.

The exemption may include, if applicable, but is not necessarily limited to:

- A. Landscaping maintenance;
- B. Exterior maintenance;
- C. Lighting; and
- D. Irrigation water.

The foregoing exemption shall be in effect until the earliest of the following events:

- (1) Recordation of a notice of completion of the structural improvements;
- (2) Occupation or use of the Lot; or
- (3) Completion of all elements of the residential structures that the Association is obligated to maintain.

The Declarant and any other owner of a Lot are exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of

a common facility 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) A notice of completion of the common facility has been recorded; or
- (2) The common facility has been placed into use.

6.8 Collection of Assessments. Except as otherwise provided above, Regular and Special Assessments shall be levied at an equal and uniform rate for all Lots and may be collected on a monthly basis. Due dates shall be established by the Board at its discretion. Compliance Assessments shall be due thirty (30) days after such Assessment has been levied.

6.8.1 Delinquent Assessments. Any assessment payment, including any installment payment, shall become delinquent if payment is not received by the Association within 15 days after its due date. There shall be a late charge of not more than ten percent (10%) or \$10, 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. Interest also shall accrue on any delinquent payment at the rate of ten percent (10%) per annum. Interest shall commence 30 days after the assessment becomes due.

6.9 Certification of Payment. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Lot have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

6.9.1 Written Statement By Association Upon Request of Owner. Within ten days after the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (i) whether, to the knowledge of the Association, the Owner or the Owner's Lot is in violation of any of the provisions of this Declaration, the Articles, Bylaws, or Association Rules; (ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year the request is received; (iii) the amount of any assessments levied against the Owner's Lot that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that as of the date of the statement are or may be made a lien against the Owner's Lot as provided by this Declaration, the Articles, Bylaws, or Association Rules; and any change in the Association's current regular and special assessments and fees approved by the Board of Directors but not yet due and payable as of the date of the disclosure.

6.10 Reserves. Each annual regular assessment shall include a portion for reserves in such amount as the Board in its discretion considers appropriate to meet the cost of the future repair, replacement, or additions to the Major Components that the Association is obligated to maintain and repair. For all purposes in this Declaration and in the Bylaws, reserve accounts shall mean (i) the funds that the Board has identified for the foregoing purposes ("Regular Reserve Funds") and (ii) the funds received and not yet expended or disposed of from either a compensatory damage award or settlement to the Association from any Person for injuries to property, real or personal, arising from any construction or design defects (the "Construction Reserve Funds"). Construction Reserve Funds shall be separately itemized from funds designated as Regular Reserve Funds. Reserve funds shall be deposited in a separate account, and the signatures of at least two persons who shall either be Members of the Board, or one officer who is not a Member of the Board and a Member of the Board, shall be required to withdraw money from the reserve account. Reserve funds may not be expended for any purpose other the repair, restoration, replacement, or maintenance, or litigation, involving the repair, restoration, replacement, or maintenance, of Major Components that the Association is obligated to maintain.

Notwithstanding the foregoing, the Board may authorize the temporary transfer of money from a reserve fund 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 fund. The transferred funds shall be restored to the reserve fund within one year after 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 temporarily delay the restoration. 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 the expended funds within the time limits required. This special assessment shall be subject to the assessment increase restrictions set forth in this Declaration, and California Civil Code §1366(b). The board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

At least once every three years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components which the association is obligated to repair, replace, restore, or maintain as a part of the reserve account requirements of the development if the current replacement value of the Major Components that the Association is obligated to repair, replace, restore, or maintain is equal to or greater than half of the gross budget of the Association, which excludes the Association's reserve account for that period. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

The study shall, at a minimum, include:

- (i) identification of the Major Components that the Association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years;
- (ii) identification of the probable remaining useful life of the components identified in subparagraph (i) as of the date of the study;
- (iii) an estimate of the cost of repair, replacement, restoration, or maintenance of the Components identified in subparagraph (i) during and at the end of their useful life; and
- (iv) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain Components identified in subparagraph (i) during and at the end of their useful lives after subtracting total reserve funds as of the date of the study.

As used in this document, "reserve account" means money that the Board has identified for use to defray the future repair or replacement of, or additions to, those Major Components that the Association is obligated to maintain; and "reserve account requirements" means the estimated funds that the Board has determined are required to be available at a specified time to repair, replace, or restore those Major Components that the Association is obligated to maintain.

If the board elects to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the association shall, in the next available mailing to all members under California Corporations Code §5016, notify its members of that decision and of the availability of an accounting of those expenses. The association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by members of the association at the association's office.

6.11 Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessments provided for herein for any reason whatsoever, including, but not limited to, non-use of the Association Property or abandonment of his Lot, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Association.

6.12 Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments herein:

- a. All property dedicated to and accepted by a local public authority; and
- b. All Association Property.

ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

7.1 Effect of Nonpayment of Assessments: Remedies of the Association. Any Regular, Special or Compliance Assessment not paid within fifteen (15) days after the due date shall be deemed delinquent and the Owner shall be required to pay (a) reasonable costs of collection, including reasonable attorneys' fees; (b) a reasonable late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), whichever is greater, or as may, from time to time, be established by the Board in accordance with California law; and (c) interest on all sums imposed under this section at an annual percentage rate not to exceed twelve percent (12 %) per annum, or the maximum rate allowed by law, commencing thirty (30) days from the date the Assessment becomes due until paid in full. The Board, for and on behalf of the Association, may commence legal action against the Owner personally obligated to pay the same, or, in the case of a Regular or Special Assessment, may foreclose the lien against his Lot. Such lien may also be foreclosed by a power of sale or other non-judicial procedure provided for by the laws of the State of California. In furtherance thereof, each Owner hereby vests in the Association, its successors or assigns, the right and power to bring all actions at law or to pursue lien foreclosure against any Owner for purposes of collecting such delinquent Assessments.

7.2 Notice of Delinquent Assessments. No action shall be brought to foreclose a lien for delinquent Assessments or to proceed under the power of sale herein, unless at least thirty (30) days has expired following the date a Notice of Delinquent Assessments is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot and a copy thereof is recorded by the Association in the Office of the County Recorder. Said Notice of Delinquent Assessments must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the total amount due and payable as provided herein, and the name and address of the principal office of the Association, and, in the event of a non-judicial foreclosure, as provided in Section 7.3 below, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice shall be signed and acknowledged by any authorized officer of the Association. A monetary fine or penalty imposed by the Association as a disciplinary measure for failure of Owner to comply with the Association Management Documents may not become a lien enforceable by non-judicial foreclosure against such Owner's Lot. The Notice of Delinquent Assessments must be signed by an authorized officer or agent of the Association and must be mailed in the manner set forth in Section 2924(b) of the California Civil Code to the Owner of record of the Lot no later than ten (10) calendar days after recordation.

7.3 Imposition of Lien. The Association may impose a lien against the Owner's Lot for the amount of the delinquent assessment or assessments, plus any costs of collection (including attorney fees), late charges, and interest by taking the following steps:

- (1) The Association shall notify the 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 the Owner, including items on the statement that indicate the principal owed, any late charges and 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 of subparagraph (1), the Association may impose a lien against the Owner's Lot in the amount of the delinquent assessment or assessments, plus costs of collection, late charges, and interest by recording a notice of delinquent assessment with the county recorder of the county in which the Development is located. The notice shall state the amount of the assessment(s) and other sums imposed in accordance with Civil Code section 1366 or any successor statute thereto, a legal description of the Owner's interest in the Development against which the assessment(s) and other sums are levied, the name of the record owner of the Owner's interest in the Development against which the lien is imposed, and, if the lien is to be enforced by non-judicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or an employee or agent of the Association authorized to do so by the Board and a copy mailed in the manner required by Civil Code section 2924b to all record owners of the Owner's interest in the Development no later than ten days after recordation.

Any payments made on the delinquent assessment(s) shall be applied first to the principal owed, and only after the principal owed is paid in full shall payments be applied to interest or collection costs. On payment of the sums specified in the notice of delinquent assessment, the Association shall cause to be recorded with the county recorder of the county in which the Development is located a notice stating the satisfaction and release of the lien thereof.

7.3.1 Foreclosure Sale. After the expiration of 30 days following the recording of the assessment lien, the Board may enforce any assessment lien established under this Declaration by filing an action for judicial foreclosure or, if the notice of delinquent assessment contained the name and address of the Trustee authorized by the Association to enforce the lien by non-judicial foreclosure, by recording a notice of default in the form described in California Civil Code § 2924c(b)(1) to commence a non-judicial foreclosure. Any non-judicial foreclosure shall be conducted in accordance with the requirements of Civil Code §§2924, 2924b, 2924c, 2924f, 2924g, 2924h, and 2924j that apply to non-judicial foreclosures of mortgages or deeds of trust. The 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 Civil Code § 2934a. The Association may bid on the Lot at the sale, and may hold, lease, mortgage, and convey the acquired Lot. If the default is cured before the sale, or before completing a judicial foreclosure, including payment of all costs and expenses incurred by the Association, the Association shall record a notice of satisfaction and release of lien, and, on receipt of a written request by the Owner, a notice of rescission of the declaration of default and demand for sale.

7.4 Curing of Default: Release Of Lien. Upon payment to the Association of the full amount claimed by the Association in the Notice of Delinquent Assessments, or other satisfaction thereof the Board shall, either prior to sale, or prior to completion of judicial foreclosure proceedings, cause to be recorded a Notice of Release of Lien stating the satisfaction and release of the amount claimed. The Board may demand and receive from the applicable Owner a reasonable charge, to be determined by the Board, for the preparation and recordation of the Notice of Release of Lien.

7.5 Cumulative Remedies. The Association's remedies for nonpayment of Assessments, including, but not limited to, an action to recover a money judgment, Assessment, lien and right of foreclosure and sale, are cumulative and in addition to and not in substitution of any other rights and remedies which the Association and its assigns may have hereunder or at law.

7.6 Mortgage Protection. Notwithstanding all other provisions hereof, no lien created hereunder nor any breach of the terms and provisions of this Declaration, nor the enforcement of any term or provision hereof, shall defeat or render invalid the rights of any Mortgagee under any recorded first Mortgage or deed of trust upon a Lot made in good faith and for value; provided, that after such Mortgagee or other person or entity obtains title to such Lot by judicial or non-judicial foreclosure, such Lot shall remain subject to this Declaration and the payment of Assessments which fall due subsequent to the date of taking title.

7.7 Alternative Dispute Resolution - Assessments. Disputes between an Owner and the Association regarding the Assessment imposed by the Association may be submitted to alternative dispute resolution in accordance with Civil Code Section 1354 if such Owner pays in full (i) the amount of assessment in dispute, (ii) any late charges, (iii) any interest, and (iv) all fees and costs associated with the preparation and filing of the Notice of Delinquent Assessment (including mailing costs and attorneys fees not to exceed four hundred twenty-five dollars (\$425.00), and states by written notice that such amount is paid under protest, and the written notice is mailed by certified mail not more than thirty (30) days of a notice of delinquent assessment.

The right of any Owner to utilize alternative dispute resolution under this Section 7.7 may not be exercised more than two times in any single calendar year, and not more than three times within five calendar years. Nothing in this section shall preclude any Owner and the Association upon mutual agreement, from entering into alternative dispute resolution in excess of the limits set forth herein. An Owner may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Association in the total amount paid under items (i) through (iv) above, if it is determined that the assessment levied by the Association was not correctly levied.

The provisions of this Section 7.7 are intended to satisfy the statutory provisions in Section 1366.3 of the California Civil Code. In the event of an amendment, modification, alteration or revocation of said Section 1366.3, the provisions of this Section 7.7 shall be deemed amended or terminated, as applicable, without the need to amend this Declaration.

Failure by any member of the association to comply with the prefiling requirements of section 1354 of the 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.

ARTICLE 8 USE RESTRICTIONS

All real property within the Project shall be held, occupied, used and enjoyed subject to the Project Master Plan and the following restrictions, limitations and exemptions reserved by and in favor of Declarant and Merchant Builders set forth in this Declaration.

8.1 Permitted Use of Residence. Except as otherwise provided in Section 8.2 below; each Residence shall be used for private, single-family residential purposes, and for no other purpose, except such temporary uses as shall be permitted by Declarant while the Project is being developed and Lots are being sold by Declarant; provided, however, that Declarant and Merchant Builders reserve the right to carry on normal sales activity on the Project, including the operation of models, sales (and administrative) office, design center and parking area, provided Declarant shall not unreasonably interfere with any other Owner's use of the Association Property.

8.2 Business and Commercial Activity. No business, commercial, manufacturing, mercantile, storage, vending or industrial operations of any kind shall be conducted in or upon any Residence or within the Association Property, except such temporary uses as shall be permitted by Declarant while the Project is being constructed and Lots are being sold by the Declarant, its successors and assigns. Notwithstanding the foregoing, this section shall not preclude professional administrative occupations which do not create any external evidence thereof, including, but not limited to any increased impact on parking, for so long as such occupations are conducted in conformance with all applicable City ordinances, no such activity increases the liability or casualty insurance obligations of the Association and premiums paid therefor, such activity is consistent with the residential character of the Project and such activity is consistent with the Protective Covenants set forth in this Declaration.

No family day care center for children shall be permitted within the Project except as specifically authorized by California Health and Safety Code Section 1597.40, et seq., and any successor or companion statutes. The

owner/operator of any such day care facility shall comply with all local and state laws regarding the licensing and operating of a day care center and, in addition, shall:

a. Name the Association as an additional insured on the liability insurance policy or bond carried by the owner/operator of the day care center;

b. Defend, indemnify and hold harmless the Association from the liability arising out of the existence and operation of the day care center;

c. Abide by and comply with all Association Rules;

d. Supervise and be completely responsible for children at all times while they are within the Project;
and

e. Cooperate with the Association if the Association's insurance agent or carrier requires proof of insurance, proof of the agreement of the owner or operator of the center to these conditions, or other reasonable requests.

8.3 No Temporary Structures. No tent or shack, or other temporary building, improvement or structure shall be placed upon any portion of the Project, except by Declarant or Merchant Builder during the build out of all phases of the Project and in connection therewith for construction and/or marketing purposes.

8.4 Association Property Use. Use of the Association Property shall be subject to the provisions of this Declaration, the Rules and Regulations and to any additional limitations imposed by the Association. Nothing shall be done or kept in any Lot or in the Association Property which will increase the rate of insurance on the Association Property without the approval of the Association. No Owner shall permit anything to be done or kept in his Lot or in the Association Property which will result in the cancellation of insurance on the Association Property or which would be in violation of any law. If, by reason of the occupancy or use of said premises by the Owner, the rate of insurance to the Association Property shall be increased, the Owner shall become personally liable for the additional insurance premiums.

8.5 Liability for Damage to Association Property. Each Owner shall be liable to the Association, pursuant to the laws of the State of California, for any and all costs and expenses which may be incurred by the Association to repair any damage to the Association Property which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenant, lessees or contract purchasers, or their respective guests or invitees, whether minor or adult. After approval by a majority of the Board, any such costs and expenses shall be levied by the Board as a Compliance Assessment against such Owner.

8.6 Signs. Subject to the provisions of California Civil Code Sections 712 and 713, and any successor or companion statutes, no sign, poster, display, billboard, or other advertising device may be displayed on any portion of the Project or on any public street or thoroughfare abutting or visible from the Project, or displayed from any Residence, without prior written consent of the Architectural Control Committee, except (1) sign or notice of customary and reasonable dimension which states that the Residence is for rent or sale, so long as it is consistent with any standards which may be adopted by the Architectural Control Committee pursuant to the Article herein entitled "Architectural Control." Such sign or notice may be placed with any Unit, and also may be placed upon the Association Property within an area specifically established by the Architectural Control Committee for such purpose. This Section does not apply to (a) any signs used by Declarant or its agents in connection with the sale of Lots or the construction or alteration of the Residences or Association Property, (b) traffic and visitor parking signs installed by Declarant, and (c) traffic and parking control signs installed with the consent of the Board. Notwithstanding the foregoing, this Section does not

permit the maintenance of any sign or other display which does not conform with applicable City and County ordinances and codes.

8.7 Animals and Plants. No animals of any kind shall be raised, bred or kept in any Lot or in the Association Property, except that common household pets, including dogs, cats or birds, may be kept in each Lot; provided, however, that no animal shall be kept, bred or maintained for any commercial purpose or in unreasonable numbers. As used herein, unreasonable numbers shall ordinarily mean the maximum number of pets permitted by the City. Each Owner shall be responsible for cleaning up any excrement or other unclean or unsanitary condition by said animal on the Association Property. The Association, upon the approval of a majority of the Board, shall have the right to prohibit maintenance of any animal within the Project which constitutes a private nuisance to any other person. Every person bringing an animal upon or keeping an animal in the Project shall be liable pursuant to the laws of the State of California to each and all persons for any injury or damage to persons or property caused by such animal. All animals maintained in a Lot must be kept either within an enclosure, yard or patio, or on a leash being held by a person capable of controlling the animal. Declarant and Merchant Builders shall be fully indemnified and held harmless by virtue of any physical injury and/or property damage proximately caused by the maintenance of any animal within the Project. No plants or seed harboring noxious insects or infected with plant diseases shall be brought, grown or maintained within the Project.

8.8 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere within the Project, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion thereof, unsanitary, unsightly or offensive. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Lot so as to be offensive or detrimental to any other Lot or to occupants thereof. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smokey vehicles, large power equipment or large power tools, unlicensed off-road motor vehicle or other items which may unreasonably disturb other Owners or their tenants, shall be located, used or placed on any portion of the Project without the prior written approval of the Architectural Control Committee. No motorcycles, dirt bikes or other mechanized vehicles may be operated upon any portion of the Association Property not improved as a street without the prior written approval of the Architectural Control Committee, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Lot and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms.

8.9 No Hazardous Activities. No activities shall be conducted on any portion of the Project and no Improvements shall be constructed on any portion of the Project which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged on the Project and no open fires shall be lighted or permitted on the Project, except in a contained barbecue unit while attended and in use for cooking purposes, or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

8.10 Improvements. There shall be no construction, alteration or removal of any Improvement in the Project (other than those repairs or rebuilding permitted under the Article entitled "Damage or Destruction to the Association Property") without the approval of the Architectural Control Committee, as set forth hereinbelow. No Owner or agent thereof shall attempt to obtain or obtain a building, electrical, plumbing or similar permit from the City unless and until approval for the construction, reconstruction, improvement or repair is granted by the Architectural Control Committee. Any construction, reconstruction, improvement or repair shall only be made in accordance with the applicable building and related codes adopted by the City. The Association shall have the right, upon a majority vote of the Board, to specifically enforce the provisions of this paragraph in any court of competent jurisdiction and/or obtain injunctive relief against the Owner. If the Association prevails in such legal proceedings, the Association shall be entitled to its costs and attorneys' fees which, if remain unpaid after three (3) months of demand, shall become a lien upon such Owner's Lot. No Improvement shall be constructed upon any portion of any Association Property, other than such Improvements