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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

RIVERVIEW

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

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

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

FOR

RIVERVIEW

This Declaration of Covenants, Conditions, Restrictions and Reservation of Easements is made by WILLIAM LYON HOMES, INC., a California corporation. The capitalized terms used in the Preamble below are defined in Article 1.

PREAMBLE

A. Declarant is the owner of real property ("*Phase 1*") in the City of Santee, County of San Diego, California, described as follows:

That portion of Lot 1 of Santee Tract No. 2018-01, according to Map thereof No. 16395 (the "*Map*"), Filed in the Office of the County Recorder of San Diego County on May 1, 2020 as File No. 2020-7000113 of Official Records, which portion is shown and described in that certain Condominium Plan for Riverview (Phase 1), Recorded on February 11, 2021, as Instrument No. 2021-01095021, of Official Records.

The Condominium Plan referenced above depicts Units 51 to 60, inclusive, Association Property and Condominium Common Area.

B. Declarant intends to create a "common interest development" within the meaning of Section 4100 of the Davis-Stirling Common Interest Development Act ("*CID Act*") or successor provision, which is also a "condominium project," as defined in California Civil Code Section 4125, a "planned development," as defined in California Civil Code Section 4175, and a "subdivision" as defined in California Business and Professions Code Section 11000. Declarant intends to impose mutually beneficial restrictions under a general plan for subdividing, maintaining, improving and selling the Condominiums in the Community for the benefit of all the Condominiums pursuant to the Davis-Stirling Common Interest Development Act. The general plan of development will include forming an owners association under the California Non-Profit Mutual Benefit Corporations Law to which will be assigned the powers of (1) owning, maintaining and administering the Association Property, (2) maintaining and administering the Association Maintenance Areas, (3) administering and enforcing the Governing Documents, and (4) collecting and disbursing the Assessments and charges hereinafter created. Declarant will cause the corporation to be formed to exercise such powers, as required under the CID Act. The Members of the Association will be the Owners in the Community, as further provided in Article 4 herein.

C. The Community is to be held, conveyed, encumbered, leased, used and improved subject to covenants, conditions, restrictions and easements in this Declaration, all of which are

in furtherance of a plan for subdividing, maintaining, improving and selling the Condominiums in the Community. All provisions of this Declaration are imposed as equitable servitudes on the Community. All covenants, conditions, restrictions and easements in this Declaration shall run with and burden the Community, and be binding on and for the benefit of all of the Community and all Persons acquiring any interest in the Community.

D. The Community is also subject to Conditions of Approval which were imposed by the City. Each Owner and the Association shall comply with the applicable provisions of the Conditions of Approval.

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1. **DEFINITIONS.** Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings.

1.1.1. **Affiliate.** Affiliate means any other person or entity that is directly or indirectly through one or more intermediaries controlled by Declarant, controls Declarant, or is under common control with Declarant. The term Affiliate includes parent companies and subsidiary companies of Declarant.

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

1.1.3. **Annual Assessment.** Annual Assessment means a charge against the Owners and their Condominiums representing their share of the Common Expenses. The Annual Assessment is a regular assessment as described in California Civil Code Section 5605(b).

1.1.4. **Articles of Incorporation.** Articles of Incorporation means the Articles of Incorporation of the Association. A copy of the draft Articles of Incorporation is attached as *Exhibit B*. The Association may from time to time amend the Articles of Incorporation without need to amend this Declaration. In such event, the amended Articles of Incorporation shall control.

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

1.1.6. **Association.** Association means Riverview Community Association, a California nonprofit corporation (formed pursuant to the California Nonprofit Mutual Benefit Corporation Law or successor statutes), and its successors-in-interest. The Association is an "association" as defined in California Civil Code Section 4080.

1.1.7. **Association Maintenance Area.** Association Maintenance Area means those Improvements in real property which are not owned in fee by the Association but which are designated for maintenance by the Association.

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

(i) Parkway landscaping in the Riverview Parkway public right of way, consisting of softscape and irrigation equipment (including water and electricity);

(ii) Landscape and irrigation improvements (including water and electricity), picnic table, shade structure, benches, bird bath and acoustical play element, all within portions of Parcel A of Parcel Map No. 20177 to the northeast of the Community;

(iii) Certain post lights within the Riverview Parkway public right of way and/or Parcel A of Parcel Map No. 20177 to the northeast of the Community;

(iv) Maintenance of the "Grantee-Maintained Segment" of the West Outlet Structure pursuant to the Easement Agreement (Drainage Channel Outlet - West), as described in Section 3.14.2; and

(v) The right, but not the duty, to maintain the South Outlet Structure and "Drainage Easement Area" pursuant to the Easement Agreement (Drainage Channel Outlet - South), as described in Section 3.14.3.

(b) **Association Maintenance Areas in Phase 1.** There are no Association Maintenance Areas in Phase 1.

(c) **Association Maintenance Areas in Future Phases.** Declarant may designate additional Association Maintenance Areas in a Notice of Addition or Supplemental Declaration.

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

1.1.9. **Association Property.** Association Property means real or personal property designated by the Declarant or the Board as Association Property and therefore made subject to the restrictions on Association Property established in the Governing Documents. Any references in this Declaration to Association Property are references to the Association Property as a whole and to portions thereof.

(a) **Generally.** The Association Property in a Phase consists of all the real property described as Association Property in the Condominium Plan for the Phase, and such additional real property, Improvements, personal property and easements as may be designated Association Property in this Declaration or in a Supplemental Declaration. The Association Property in the Community includes the following:

(i) **Condominium Building, Land and Related Improvements.** Each Condominium Building and the land below and surrounding the Condominium Building, the components of each Condominium Building and related Improvements as listed in Section 1.1.23;

(ii) Other Improvements. Entry monument, swimming pool, spa, restroom building, play structure, benches, barbeques, landscaped and irrigated areas, perimeter walls and fencing, mailboxes, Private Streets, Public Trail, walls, fences, drainage Improvements, water quality basins, stormwater treatment Improvements, sidewalks, parkways, street lights, area lighting fixtures, street trees, curbs, gutters, drive approaches and landscaping; and

(iii) Easements Granted to or Reserved for the Association. In addition, Association Property includes easements for access, ingress, egress, encroachment, enforcement, support, maintenance, drainage, and repair, all as reserved in the Governing Documents, or in the Map, or in other Recorded instruments, provided, however, the Association shall only have the responsibility for maintenance of the Improvements located on or in such easements where such maintenance responsibility is assigned to the Association in a recorded Governing Document or in the Association's Budget.

(b) ***Phasing of Association Property.*** Section 1.1.9(a) is a descriptive listing of Association Property planned for the Community if it is constructed as planned. Some or all of the Association Property in the Community will be conveyed to the Association in subsequent Phases; Section 1.3 below and any Supplemental Declaration Recorded by Declarant constitute the designation of the Association Property to be made a part of Phase 1. The Association Property in the Community will be conveyed to the Association on a Phase-by-Phase basis in accordance with Declarant's development plan. In accordance with Article 16, Declarant may designate additional Association Property Improvements not listed above in one or more Phases by describing it in the Governing Documents and/or the applicable Condominium Plan, consistent with DRE regulations, the Budget and applicable law.

1.1.10. **BMPs.** BMPs means "Best Management Practices," which are methods, protocols and procedures for the control, reduction and prevention of storm water and pollutant runoff from the Community into storm drains and waterways. BMPs are imposed on the Community through the requirements of the WQMP (defined below) and the Conditions of Approval. The BMPs applicable to the Community are specified in detail in the WQMP.

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

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

1.1.13. **Bylaws.** Bylaws means the Bylaws of the Association as currently in effect. A copy of the draft Bylaws is attached as *Exhibit C*. The Association may from time to time amend the Bylaws without need to amend this Declaration. In such event, the amended Bylaws shall control.

1.1.14. **Capital Improvement Assessment.** Capital Improvement Assessment means a charge against the Owners and their Condominiums representing their share of the Association's costs incurred in installing, constructing, upgrading or modifying major or capital Improvements on the Common Property, and which costs are not regular scheduled maintenance

costs or reserves in the adopted Budget. Capital Improvement Assessments shall be levied in the same proportion as Annual Assessments. Capital Improvement Assessments are special assessments imposed in accordance with the requirements of California Civil Code Section 5605(b).

1.1.15. **CID Act.** CID Act means the Davis-Stirling Common Interest Development Act and its successor provisions at California Civil Code Sections 4000 to 6150, or to subsequently enacted replacement statutes.

1.1.16. **City.** City means the City of Santee, California, and its various departments, divisions, employees and representatives.

1.1.17. **Close of Escrow.** Close of Escrow means the date on which a deed is Recorded conveying a Condominium pursuant to a transaction requiring the issuance of a Public Report.

1.1.18. **Common Expenses.** Common Expenses means those expenses for which the Association is responsible under this Declaration. Common Expenses include the actual and estimated costs of and reserves for maintaining, managing and operating the Common Property (including amounts this Declaration imposes on the Association for maintenance), including:

(a) Policies of Insurance required to be carried by the Association under Article 8;

(b) Replacement, maintenance and operation of street lights and post lights on Private Streets and other portions of the Association Property,

(c) Maintenance services for the Common Property, including pool and spa service and landscape maintenance;

(d) All utilities (including sewer and water) and mechanical and electrical equipment serving the Common Property, utilities which serve individual Condominiums but which are furnished through common meters, and trash collection and removal from Common Property receptacles;

(e) Managing and administering the Association, compensating the Manager, accountants, attorneys and employees, all insurance covering the Community and the Directors, officers and agents of the Association, and bonding the members of the Board;

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

(g) The cost of fire alarm monitoring and sprinkler system testing and maintenance in the Association Property, including the Condominium Buildings;

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

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

(j) Taxes paid by the Association;

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

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

1.1.19. Common Property. Common Property means the Association Property, the Association Maintenance Areas and the Improvements constructed thereon. Any references to the Common Property are references to the Common Property as a whole and to portions thereof.

1.1.20. Community. Community means (a) Phase 1 and (b) each subsequent Phase as defined below. The Community is a "condominium project" as defined in California Civil Code Section 4125, a "planned development," as defined in California Civil Code Section 4175, and a "common interest development" as defined in California Civil Code Section 4100. Any references in this Declaration to the Community are references to the Community as a whole and to portions thereof. If all Phases of the Community are annexed as presently planned, the Community will include approximately 128 Units.

1.1.21. Conditions of Approval. Conditions of Approval means: (a) the Conditions of Approval for Tentative Map (TM2018-1), as set forth in Resolution No. 105-2018 adopted by the City Council of the City of Santee on August 22, 2018, and (b) the Conditions of Approval for Development Review Permit (DR2018-3), as set forth in Resolution No. 106-2018 adopted by the City Council of the City of Santee on August 22, 2018, as each may be amended or supplemented from time to time.

1.1.22. Condominium. Condominium means an estate in real property as defined in California Civil Code Section 4125. A Condominium consists of an undivided fee-simple ownership interest in the Condominium Common Area in a Phase, together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. Subject to the provisions of Section 10.4, the undivided fee-simple interest in the Condominium Common Area in a Phase is appurtenant to each Unit in such Phase and is a fraction having one (1) as its numerator and the number of Units in that Phase as its denominator; and it shall be held by the Owners of Condominiums in that Phase as tenants-in-common.

1.1.23. Condominium Building. Condominium Building means each of the multiple-dwelling residential structures in the Community which contains the Units, all as shown in the applicable Condominium Plan. While Condominium Buildings enclose the living element (also referred to as residential element) and garage element of the Units, the Condominium

Buildings are not part of the Units. For purposes of interpreting this Declaration and the Condominium Plan, the term Condominium Building is intended to include all of the following components:

(a) The shell (including the roof, foundation and exterior surfaces and the finishes thereon) and the core of the Condominium Building;

(b) all structural support elements existing in, on, under and throughout the Condominium Building shell and core that carry ceiling, roof and floor loads to the foundation, including all separate or common footings, girders, columns and braces, the foundations, temporary and permanent tieback systems, and other standard support elements, and every wall, column, floor, ceiling, footing, foundation or other vertical or horizontal Improvement in the Condominium Building, but the Condominium Building does not include between-room walls or partitions within a Unit that are not necessary for the structural support of the Condominium Building (for purposes hereof, any wall or other structure that carries roof, ceiling or upper floor loads is "necessary for structural support");

(c) any central HVAC systems which serve the Association Property and/or multiple Units;

(d) all exterior walls and surfaces of the Condominium Building (excluding the entry doors, sliding glass doors, glass portions of windows, and garage doors at the Unit's boundaries) and the surface treatments of all of the foregoing (including siding, stone, stucco, plaster, paint and stain);

(e) fixtures that are outside the boundaries of the Units, including exterior lighting fixtures, utility closets on Condominium Building exteriors, utility meters and the cables, pipes, conduits and other facilities for the delivery of utilities to the Community (except for outlets that are located in the Unit);

(f) central smoke and carbon monoxide detection systems in the Condominium Building (if any), fire sprinkler systems serving each Condominium Building, including alarms, fire sprinkler pipes, and the sensors, pipes and fire sprinkler heads that protrude into the boundaries of the Unit;

(g) cables and related equipment for the delivery of Telecommunications Services to the Community (except for any outlets in the Unit boundaries and except for connectors, fibers or cables that protrude into the boundaries of the Unit); and

(h) attic spaces above ceilings, drains, outlets, stairways, vaults, air shafts, mechanical shafts, ducts, pipes, lines, mains, conduits, lighting fixtures, flues and any other equipment, fixtures, machinery, system or apparatus which are located outside the Unit boundaries and/or which serve Association Property and/or multiple Units in the Condominium Building.

1.1.24. Condominium Common Area. Condominium Common Area means the volumes of airspace described in the Condominium Plan for each Phase, which shall be owned by the Owners of the Units in the Phase as tenants-in-common. Any references in this

Declaration to Condominium Common Area are references to the Condominium Common Area as a whole and to portions thereof. The Condominium Common Area in each Phase constitutes the "undivided interest-in-common in a portion of the real property," in accordance with California Civil Code Section 4125.

1.1.25. **Condominium Plan.** Condominium Plan means the Recorded plan, as currently in effect, for a Phase consisting of (a) a description or survey map of the Phase or portion thereof, which shall refer to or show monumentation on the ground, (b) a three dimensional description of the Phase or portion thereof, one or more dimensions of which may extend for an indefinite distance upwards or downwards in sufficient detail to identify the Association Property, Condominium Common Area and each Unit, and (c) a certificate consenting to the Recordation thereof signed and acknowledged by the record owner of fee title to the Phase or portion thereof, and by either the trustee or the Mortgagee of each Recorded Mortgage encumbering the Phase or portion thereof.

1.1.26. **County.** County means San Diego County, California, and its various departments, divisions, employees and representatives.

1.1.27. **Declarant.** Declarant means William Lyon Homes, Inc., a California corporation, its successors and any Person to which it shall have assigned the right to act as Declarant by an express written assignment. As used in this Section, "successor" means a Person who acquires Declarant or substantially all of Declarant's assets by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise. Declarant shall determine in its sole discretion the time, place and manner in which it discharges its obligations and exercises the rights reserved to it under this Declaration. Declarant is a "builder" as described in California Civil Code Section 6000.

1.1.28. **Declarant Parties.** Declarant Parties means Declarant and any of Declarant's Affiliates, partners, members, or other principals and their respective officers, agents, employees, sales persons, successors and assigns, design centers, subcontractors, repair contractors and other subcontractors that make repairs pursuant to the Right to Repair Act, design professionals, engineers, inspectors and material suppliers who provided labor, services or materials to any portion of the Community.

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

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

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

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

1.1.33. **Easement Agreement (Drainage Channel Outlet - West).** Easement Agreement (Drainage Channel Outlet - West) means that certain "Easement Agreement

(Drainage Channel Outlet)," Recorded on September 6, 2019, as Instrument No. 2019-0386996 in the Official Records, as may be amended, restated, and/or re-Recorded from time to time and currently in effect. The Easement Agreement (Drainage Channel Outlet - West) is described in further detail in Section 3.14.2 below.

1.1.34. Exclusive Use Area. Exclusive Use Area means the Association Property over which exclusive easements are reserved for the benefit of specified Owners, including the following:

(a) decks, as described in this Declaration and as depicted and assigned in the applicable Condominium Plan;

(b) exclusive easements for placement and maintenance of air conditioner compressors and compressor pads, as depicted and assigned in an Exhibit to this Declaration or the applicable Supplemental Declaration; and

(c) internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of the Unit, in accordance with California Civil Code Section 4145.

The Exclusive Use Areas described above in each Phase are assigned and their approximate locations depicted in the Condominium Plan for the Phase, or an Exhibit to this Declaration or the applicable Supplemental Declaration; however, the as-built locations of the Improvements defining the boundaries of the decks and the as-built locations of the air conditioner compressors and compressor pads shall control over any depiction in a Condominium Plan or this Declaration. The Exclusive Use Areas for placement and maintenance of air conditioner compressors and compressor pads in Phase 1 are depicted and assigned in *Exhibit F* attached to this Declaration.

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

1.1.36. Fannie Mae. Fannie Mae means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968 and its successors.

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

1.1.38. FHA Requirements. FHA Requirements means, collectively, the requirements applicable to the Community as set forth in (a) the U.S. Department of Housing and Urban Development (HUD) FHA Single Family Housing Policy Handbook (Handbook 4000.1) and (b) the HUD Condominium Regulations of the National Housing Act, Title 24 CFR Part 203, all as updated, amended, restated, revised or replaced from time to time.

1.1.39. FHFA. FHFA means the Federal Housing Finance Agency, established pursuant to the Housing and Economic Recovery Act of 2008, and its successors.

1.1.40. **First Mortgage.** First Mortgage means a Mortgage with first priority over other Mortgages on a Condominium.

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

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

1.1.43. **Freddie Mac.** Freddie Mac means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970 and its successors.

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

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

1.1.46. **HUD.** HUD means the United States Department of Housing and Urban Development and its successor agencies.

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

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

1.1.49. **Local Government Agency.** Local Government Agency means the City, the County, a public school district, a public water district, and any other local or municipal governmental entity or agency, including any special assessment district, maintenance district or community facilities district.

1.1.50. **Maintain, Maintenance.** Whether capitalized or not, maintain and maintenance mean "maintain, repair and replace" and "maintenance, repair and replacement," respectively; provided however, that maintain or maintenance shall not include repair and replace(ment) where the context or specific language of this Declaration provides another meaning.

1.1.51. **Maintenance Guidelines.** Maintenance Guidelines means any current written guidelines, setting forth procedures and standards for the maintenance and operation of Common Property or the Condominiums. Maintenance Guidelines may be provided by Declarant, by the Association, or by any governmental agency. Maintenance Guidelines include any maintenance manual initially prepared at Declarant's direction and containing recommended frequency of inspections and maintenance activities for components of the Common Property or pertaining to a Condominium.

1.1.52. **Manager.** Manager means the Person retained by the Association to perform management functions of the Association as limited by the Governing Documents and the terms of the agreement between the Association and the Person. The Manager shall at all times be a professional manager employed as an independent contractor or agent working at its own place of business.

1.1.53. **Map.** Map means the final recorded map of Santee Tract No. 2018-01, as described in Preamble Paragraph A above.

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

1.1.55. **Mortgage.** Mortgage means any Recorded document, including a deed of trust, by which a Condominium, Condominiums, or Association Property is/are hypothecated to secure performance of an obligation.

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

1.1.57. **Mortgagee Majority.** Mortgagee Majority means the First Mortgagees holding First Mortgages that in the aggregate encumber at least fifty-one percent (51%) of the Condominiums that are subject to Mortgages. For purposes of any provisions of the Governing Documents which requires the vote or approval of a Mortgagee Majority, such vote or approval is determined based on one (1) vote for each Condominium encumbered by a First Mortgage held by a First Mortgagee.

1.1.58. **Mortgagor.** Mortgagor means a person who has mortgaged his property. For purposes of this Declaration, the term Mortgagor shall include a trustor under a deed of trust.

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

1.1.60. **Notice of Addition.** Notice of Addition means a Recorded Supplemental Declaration which satisfies the requirements of Section 16.4 for instruments annexing additional real property to the Community.

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

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

1.1.63. **Owner.** Owner means the Person or Persons, including Declarant, holding fee simple interest to a Condominium. The term "Owner" includes sellers under

executory contracts of sale but excludes Mortgagees. The term "Owner" may be expanded in a Supplemental Declaration to include other Persons.

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

1.1.65. **Phase.** Phase means the real property and Improvements described and designated a Phase of the Community in this Declaration or in a Recorded Supplemental Declaration, the Units of which are described in a Public Report. For purposes of interpreting each Condominium Plan, the term Phase means and refers to the real property described and depicted within its boundaries, together with such additional real property as may be designated a part of the Phase in this Declaration or in a Recorded Supplemental Declaration.

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

1.1.67. **Private Street.** Private Street means any private drive, alley or motor court within the Association Property in the Community.

1.1.68. **Public Report.** Public Report means the Final Subdivision Public Report issued by DRE for any Phase.

1.1.69. **Public Trail.** Public Trail means the public pedestrian and cycling pathway located along the northern boundary of the Community and running roughly parallel to the San Diego River. The Public Trail is located on Association Property and will be owned and maintained by the Association, except for certain improvements which may be maintained by the City or other government agency. The Public Trail is a segment of the San Diego River Trail and connects the Community to other portions of the San Diego River Trail. The Public Trail is described further in Section 3.12 below.

1.1.70. **Reciprocal Access Easement.** Reciprocal Access Easement means that certain "Reciprocal Access Easement," Recorded on September 6, 2019, as Instrument No. 2019-0386995 in the Official Records, as may be amended, restated, and/or re-Recorded from time to time and currently in effect. The Reciprocal Access Easement is described in further detail in Section 3.14.1 below.

1.1.71. **Reconstruction Assessment.** Reconstruction Assessment means a charge levied against the Owners and their Condominiums representing their share of the Association's extraordinary expense to repair or reconstruct Common Property as provided in California Civil Code Section 5610. Such charge shall be levied among all Owners and their Condominiums in the same proportions as Annual Assessments; provided, however, that Reconstruction Assessments levied in connection with repair or reconstruction of Condominium Buildings shall be levied among each of the Owners and their Condominiums in the same proportions as the estimated square footage of the Owner's Unit bears to the total estimated square footage of all Units in the Condominium Building. Reconstruction Assessments are "special assessments" as described in California Civil Code Section 5605(b).

1.1.72. **Record or File.** Record or File means, concerning any document, the entry of such document in Official Records.

1.1.73. **Reserve Fund.** Reserve Fund means that portion of the Common Expenses allocated for the future repair and replacement of, or additions to, structural elements, mechanical equipment and other major components of Association-maintained Improvements.

1.1.74. **Residence.** Residence means the Unit. Unit and Residence may be used interchangeably.

1.1.75. **Right to Repair Act.** Right to Repair Act means California Civil Code Sections 895 through 945.5.

1.1.76. **Right to Repair Act Claim.** Right to Repair Act Claim means any claim brought by one or more Owners or by the Association against one or more Declarant Parties (as defined in Section 12.4) on any design or construction defect matters that are governed by the Right to Repair Act.

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

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

(a) A reasonable monetary penalty imposed against an Owner and the Owner's Condominium in accordance with California Civil Code Section 5725(b), as a disciplinary measure for the failure of an Owner to comply with the Governing Documents (but which may not be characterized nor treated in the Governing Documents as an Assessment that may become a lien enforceable by sale of the Condominium); or

(b) A monetary charge imposed against an Owner and the Owner's Condominium in accordance with California Civil Code Section 5725(a) to recover costs incurred by the Association (i) to bring an Owner and the Owner's Condominium into compliance with the Governing Documents, or (ii) in the repair of damage to Common Property caused by the Owner or the Owner's Family, contractors, residents, tenants or guests, all as further described in the CID Act and this Declaration. Provided, however, that in accordance with Section 2792.26(c) of Title 10, Chapter 6, California Code of Regulations, monetary charges described in this Section (b) which are imposed before the last Close of Escrow in the Community or Annexable Area may not be characterized or treated as a lien enforceable by judicial foreclosure and sale of the Condominium; or

(c) A Capital Improvement Assessment; or

(d) A Reconstruction Assessment; or

(e) Any other Assessment or increase imposed pursuant to California Civil Code Section 5610 to pay an extraordinary expense or to make up a shortfall in any Operating Fund or Reserve Fund or for other purposes permissible thereunder.

1.1.79. Supplemental Declaration. Supplemental Declaration means an instrument Recorded by Declarant against all or a portion of the Community in order to supplement, modify, or clarify conditions, covenants, restrictions or easements established under this Declaration. A Supplemental Declaration may affect one or more Condominiums, Condominium Common Area and Common Property, and it may annex additional real property to the coverage of the Declaration so long as it satisfies the requirements of a Notice of Addition in Article 16. A Supplemental Declaration may modify this Declaration only as it applies to the property encumbered by the Supplemental Declaration.

1.1.80. Telecommunications Facilities. Telecommunications Facilities means Improvements constructed in the Community, including cables, conduits, ducts, vaults, connecting hardware, wires, poles, transmitters, towers, antennae and other devices now existing or that may be developed in the future to provide Telecommunication Services to the Community.

1.1.81. Telecommunications Services. Telecommunications Services means the reception, distribution or transmission of video, audio, data, telephony, all related vertical services, and any other similar services now existing or that may be developed in the future. Declarant may expand this definition in any Supplemental Declaration.

1.1.82. Unit. Unit means a separate interest in space as defined in California Civil Code Section 4125. Each Unit is a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan.

(a) Each Unit consists of a living element (also referred to as residential element) and a garage element as shown in the Condominium Plan, and includes the entry doors, sliding glass doors, and the glass portions of windows (and all related door and window hardware) at the Unit's boundaries, the garage door (including opener and hardware), between-room walls or partitions in the Unit boundaries that are not necessary for structural support of the Condominium Building (but not any wall separating neighboring Units), drop ceilings and soffits in the Unit and the space above and within them (and the forced-air units and the heating and air conditioning ducts located above the drop ceilings), and those portions of gas, water and waste pipes, ducts, outlets, drains, chutes, conduits, wires and other utility installations that protrude into the Unit (but not fire sprinkler heads, sensors or pipes that protrude into the Unit).

(b) the boundaries of each Unit are approximately shown in the Condominium Plan. In interpreting deeds, this Declaration and the Condominium Plan, the actual boundaries of each Unit shall be deemed to extend to the interior unfinished Unit-facing surfaces of the walls, floors, and ceilings and to the full thickness of the entry doors, sliding glass doors, windows, and garage doors encompassing the living element and garage element of the Unit, as constructed or reconstructed in substantial accordance with the original plans for the Unit. The foregoing interpretation shall apply notwithstanding any description expressed in the deed, the Condominium Plan or the Declaration, regardless of settling or lateral movements of Improvements, and regardless of variances between Unit boundaries shown in the Condominium Plan or deed and those of the Improvement.

1.1.83. **VA.** VA means the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to the VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

1.1.84. **VA Requirements.** VA Requirements means Chapter 16 of VA Pamphlet 26-7 and the regulations at 38 Code of Federal Regulations Sections 36.4360 through 36.4367.

1.1.85. **Water Quality Management Plan or WQMP.** Water Quality Management Plan means that certain Storm Water Quality Management Plan (SWQMP) for Riverview Town Center that was approved by the City of Santee Department of Development Services Engineering Division on April 8, 2020, as may be amended from time to time with the approval of the City. The Water Quality Management Plan includes details of the "best management practices" or "BMPs" for the prevention and control of stormwater runoff and pollutants into public storm drains.

1.2. **INTERPRETATION.**

1.2.1. **General Rules.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for subdividing, maintaining, improving and selling the Community. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise. Any reference in this Declaration to time of performance of obligations or to elapsed time means consecutive calendar days, months or years, as applicable, unless otherwise expressly provided.

1.2.2. **Articles, Sections and Exhibits.** The Article and Section headings are inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. *Exhibits A* and *D* through *F* attached to this Declaration are incorporated in this Declaration by this reference. The Articles of Incorporation and the Bylaws that are attached as *Exhibits B* and *C* are attached for informational purposes only. Either may be amended from time to time without having to amend this Declaration. In such event, the amended version shall supersede the version attached hereto. The locations and dimensions of any Improvements shown on the Exhibits attached hereto and to any Notice of Addition are approximate only and the as-built location and dimension of any such Improvements shall control.

1.2.3. **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and the Articles of Incorporation, Bylaws, Rules and Regulations, or a Condominium Plan, then the provisions of this Declaration shall prevail; however, the conflicting documents shall be construed to be consistent with the Declaration to the extent possible. If there are any conflicts or inconsistencies between this Declaration and any Notice of Addition, the provisions of the Notice of Addition shall prevail as to the real property encumbered thereby.

1.2.4. **Supplemental Declarations.** Declarant may Record one (1) or more Supplemental Declarations, which may (a) supplement this Declaration with such additional covenants, conditions, restrictions, easements and land uses as Declarant may deem appropriate for the real property described therein or affected thereby, and (b) state Declarant's intent as to covenants, conditions, restrictions, easements and land uses in the real property described therein or affected thereby. The provisions of any Supplemental Declaration may impose such additional, different or more restrictive conditions, covenants, restrictions, land uses and limitations as Declarant may deem advisable, taking into account the particular requirements of the real property described therein or affected thereby. If there is a conflict between any Supplemental Declaration and the Declaration, the Supplemental Declaration shall control concerning the real property described in such Supplemental Declaration. However, additional, different or more restrictive conditions, covenants, restrictions, land uses and limitations included in a Supplemental Declaration shall be construed in a manner consistent with the purposes of the Governing Documents and the character of the Community, and shall be consistent with applicable law and development plans on file with DRE.

1.2.5. **Severability.** The provisions of this Declaration are independent and severable. If for any reason, any provision of this Declaration becomes invalid, partially invalid, unenforceable, illegal, null and void, or against public policy, or if for any reason, a court of competent jurisdiction determines that any provision of this Declaration is invalid, partially invalid, unenforceable, illegal, null and void, or against public policy, the validity and enforceability of the remaining provisions of this Declaration shall remain in effect to the fullest extent permitted by law.

1.2.6. **Statutory and Regulatory References.** All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

1.2.7. **FHA Requirements.** The FHA Requirements are incorporated herein by reference only if there are any FHA-insured Mortgages on Condominiums in the Community. While such FHA-insured Mortgages are in effect, the FHA Requirements shall control and prevail over all other provisions of the Declaration to the extent of any inconsistency between them.

1.2.8. **VA Requirements.** The VA Requirements are incorporated herein by reference only if there are any VA-guaranteed Mortgages on Condominiums in the Community. While such VA-guaranteed Mortgages are in effect, the VA Requirements shall control and prevail over all other provisions of the Declaration to the extent of any inconsistency between them.

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

1.3.1. **Units.** The Units in Phase 1 are numbered 51 to 60, inclusive, and they are shown and described in the Condominium Plan for Phase 1.

1.3.2. **Association Property.** The Association Property in Phase 1 consists of a portion of Lot 1 of Santee Tract No. 2018-01 and the Condominium Building(s), and all other Improvements thereon, but excepting therefrom the Units and Condominium Common Area, all as shown and described in the Condominium Plan for Phase 1.

1.3.3. **Association Maintenance Areas.** There are no Association Maintenance Areas in Phase 1.

1.3.4. **Condominium Common Area.** The Condominium Common Area in Phase 1 is shown and described in the Condominium Plan for Phase 1.

1.4. **CONDOMINIUM PLANS FOR DIAGRAMMATIC PURPOSES ONLY.** Each Condominium Plan and the dimensions shown therein is intended to conform to California Civil Code Section 4285, which requires, in part, concerning the land and real property described therein, the inclusion of diagrammatic plans in sufficient detail to identify the Condominium Common Area and each Unit, its relative location and approximate dimensions.

The dimensions shown in the Condominium Plans are not intended to be sufficiently accurate to use for sales, leasing or appraisal purposes, or for computation of usable floor area or the volume of any portion of the Units or Exclusive Use Areas shown in the Condominium Plans. The diagrammatic plans contained therein intentionally omit information with respect to certain Improvements constructed within the Units.

The actual locations and dimensions of a particular room, Unit, Exclusive Use Area or Condominium Common Area are all dependent on the Improvements as they were actually constructed, and there may be variances due to field conditions and the presence of interior Improvements that are not shown in the Condominium Plans. There may also be variances among Condominiums of the same floor plan.

A CONDOMINIUM PLAN IS NOT A REPRESENTATION OR WARRANTY BY DECLARANT OR ITS CONSULTANTS AS TO THE ACTUAL LOCATIONS OR DIMENSIONS OF THE UNIT, EXCLUSIVE USE AREAS, CONDOMINIUM COMMON AREA OR ASSOCIATION PROPERTY SHOWN THEREIN. IN ALL INSTANCES, THE ACTUAL LOCATIONS AND DIMENSIONS OF THE IMPROVEMENTS AS CONSTRUCTED WILL CONTROL OVER LOCATIONS OR DIMENSIONS DISCLOSED IN A CONDOMINIUM PLAN. THE ONLY RELIABLE DETERMINATION OF THE USABLE FLOOR AREA OR VOLUME OF A UNIT, EXCLUSIVE USE AREAS, CONDOMINIUM COMMON AREA OR ASSOCIATION PROPERTY IS A DETERMINATION MADE FROM ON-SITE MEASUREMENTS OF THE IMPROVEMENTS AS THEY ARE CONSTRUCTED.

ARTICLE 2 MAINTENANCE COVENANTS AND USE RESTRICTIONS

The Community shall be held, used and enjoyed subject to the following restrictions and subject to the exemptions of Declarant set forth in the Governing Documents.

2.1. REPAIR AND MAINTENANCE.

2.1.1. **Maintenance Obligations and Standards.** The items listed in *Exhibit D* to this Declaration shall be maintained by the party indicated. If an item is not listed in *Exhibit D*, then it shall be maintained in accordance with the general rules established in this Declaration, in the current adopted Budget, and any applicable Maintenance Guidelines (provided, however, that only Declarant, and not the Association or any other Owner, shall have the right to revise, supplement or replace any written Maintenance Guidelines initially provided by Declarant).

(a) **By Association.** The Association shall maintain the Common Property and those portions of the Exclusive Use Areas that are designated for Association maintenance in the Governing Documents. The Association shall maintain everything it is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with the level and frequency of maintenance reflected in the current adopted Budget; provided, however, that the Association shall at all times at least perform the level and frequency of maintenance specified in the applicable Maintenance Guidelines. The Association shall not be responsible for maintaining any portions of the Association Property maintained by the City, which are currently planned to include certain Improvements located along the Public Trail and Improvements adjoining Riverview Parkway. Declarant may describe specific Improvements within the Association Property that are planned to be maintained by the City in a Supplemental Declaration.

(b) **By Owners.** Each Owner shall maintain the interior of the Unit and those portions of the Exclusive Use Area that are designated for Owner maintenance in the Governing Documents, in a clean, sanitary and attractive condition and as directed in the Governing Documents and all applicable Maintenance Guidelines. Each Owner shall immediately notify the Association of any dangerous, defective or other condition which could cause injury to persons or damage to property in such Owner's Unit or Exclusive Use Area, the Units or Exclusive Use Areas of other Owners, and Common Property. Unless other arrangements are approved by the Board, all Owner-installed Improvements must be maintained by the Owner who installed the Improvements.

(c) **Association Power to Perform Owner Obligations.** If an Owner fails to maintain any Improvement that the Owner is obligated to maintain, the Association has the power, but not the duty, to perform the maintenance at the Owner's expense. In an emergency, the Association may perform the maintenance immediately; in all other cases, the Association may perform the maintenance after Notice and Hearing. For purposes hereof, an "emergency" is any situation in which the Association's Manager or the Board reasonably determines that there is an imminent threat of injury to persons or damage to property.

(d) **Disputes Regarding Maintenance Obligations.** Disputes between Owners or between any Owner and the Association regarding maintenance shall be resolved in accordance with the enforcement process described in Section 12.1.

(e) **Damage by Owners.** Each Owner is liable to the Association for all damage to the Common Property that is sustained due to the negligence or willful act of the

Owner, the Owner's Family, contractors, residents, tenants or invitees, and any other Persons who derive their use of the Common Property from the Owner or from the Owner's Family, contractors, residents, tenants or invitees. The Association may, after Notice and Hearing, levy against the Owner a Special Assessment representing a monetary charge imposed as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Property and facilities for which the Owner or the Owner's Family, contractors, residents, tenants or invitees were responsible. The amount of the Special Assessment may include (a) the amount of any deductible payable on the insured portion of the loss (if the Association elects to make a claim under its insurance policy), (b) all costs and expenses actually incurred by the Association to correct damage that is not covered by the Association's insurance or for which no claim has been made, and (c) the amount of the increase in premiums payable by the Association, to the extent the increase is directly caused by damage that was attributed to the Owner or the Owner's Family, contractors, residents, tenants or invitees. In accordance with California Civil Code Section 5725(a), the Association shall have the power to impose a lien for the foregoing Special Assessment. If a Condominium is jointly owned, the liability of its Owners for damage to Common Property is joint and several, except to the extent that the Association and the joint Owners have otherwise agreed in writing.

2.1.2. Pest Eradication. If determined by the Board to be economically feasible, the Association shall adopt an inspection and prevention program for the prevention and eradication of infestation by pests, including wood-destroying pests and organisms in the Community. If the Association adopts such a program, the Association, on no less than fifteen (15) nor more than thirty (30) days' notice, may require each Owner and the occupants of the Owner's Condominium to vacate such Condominium to accommodate the Association's efforts to eradicate such infestation. The notice must state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage caused to a Condominium by such entry by the Association or by any person authorized by the Association shall be repaired by the Association as a Common Expense. All costs involved in operating the inspection and preventive program as well as repairing and replacing the Common Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of wood-destroying pests or organisms are a Common Expense.

2.1.3. Landscaping, Generally. The Association shall maintain the Common Property irrigation systems and maintain the Common Property landscaping in a healthy, flourishing, weed-free condition, and turf (if any) shall be kept evenly cut, evenly edged, free of bare or brown spots, debris, and weeds above the level of the grass at all times in accordance with applicable City landscape maintenance standards and subject to Section 2.3. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the walkways. All trees shall also be root-pruned to eliminate exposed surface roots and damage to sidewalks, driveways and structures. Automatic irrigation systems shall be properly maintained and other reasonable and adequate landscape maintenance procedures shall be performed. Landscaping shall be designed with an efficient irrigation system to reduce runoff and overspray and to promote surface infiltration. Landscaping shall also be designed and maintained to minimize the use of fertilizers, herbicides and pesticides. The Association is encouraged to use integrated pest management practices (less toxic pest management) as a first step in maintaining landscaping.

Chemical pesticides and fertilizers should be employed as a last resort in managing weeds and other pests.

2.1.4. Fire Sprinklers. The Residences are equipped with fire sprinkler systems. Each Owner shall cooperate with the Association's regularly scheduled inspections and testing of the fire sprinklers in each Condominium Building, including permitting the Association's personnel and/or its sprinkler service provider to enter the Unit at reasonable times for inspection and pressure testing. Keep sources of direct heat away from fire sprinklers. Owners should report any leaking or malfunctioning fire sprinklers to the Association or its service provider if designated in the Maintenance Guidelines.

2.1.5. Carbon Monoxide Detectors/Smoke Detectors/Fire-Life Safety Systems. Fire-life safety systems installed in the Units may include carbon monoxide detectors, smoke detectors and fire sprinklers, among other Improvements. Owners are responsible for maintaining the carbon monoxide detectors and smoke detectors and ensuring that they are kept in working order. Owners shall not interfere with or disable the function of the sprinkler heads, pipes, pressure gauges, carbon monoxide detectors, smoke detectors or any other portion of the fire-life-safety system. By acceptance of a deed to a Condominium, each Owner acknowledges that Declarant is not responsible for any damage to the Owners' Condominium or to the Association Property to the extent caused by an Owner's failure to maintain the carbon monoxide or smoke detectors or interference with the operation of the sprinkler heads, pipes or pressure gauges, or any other portion of the fire-life safety system.

2.1.6. Stormwater Pollutant Control. The Community is subject to all federal, state and local requirements of the National Pollutant Discharge Elimination System, adopted in accordance with the Federal Clean Water Act. Pursuant to City requirements, a Water Quality Management Plan ("**WQMP**") was prepared for the Community. The WQMP sets forth BMPs to mitigate or eliminate pollutants in storm water discharges from the Community. The BMPs for the Community include biofiltration basins and modular wetlands systems which must be maintained by the Association in accordance with the WQMP. The WQMP specifies the frequency, manner and standards by which the BMPs must be repaired and maintained in order to retain their effectiveness. The Association shall maintain a copy of the WQMP in perpetuity. Owners and the Association are also subject to any applicable BMPs and requirements which may be imposed by the City or other state, local or federal government agencies. Owners and the Association are hereby notified that the Community may also be subject to an "Agreement to Perform Storm Water Facilities Maintenance" recorded against the Community in the Official Records ("**WQMP Agreement**"). The WQMP Agreement may require maintenance of the BMPs in accordance with the WQMP, annual inspection and certification to the City, right of entry and inspection by City, among other provisions. The Owners and the Association are subject to the WQMP Agreement recorded in the Official Records, as may be amended from time to time and currently in effect.

2.1.7. Light Fixtures. Pursuant to the Conditions of Approval, all light fixtures shall be designed and adjusted to reflect light downward, away from any road or street, and away from any adjoining premises, and shall otherwise conform to the requirements of Title 17 of the Santee Municipal Code.

2.2. COMMENCEMENT OF ASSOCIATION MAINTENANCE OBLIGATIONS.

The Association's obligation to maintain the Common Property in a Phase commences on the date on which Annual Assessments commence on the Units in the Phase, unless the terms of the Governing Documents applicable to the particular Common Property provide otherwise. Until the Association is responsible for maintaining the Common Property in the Phase, Declarant shall maintain such Common Property. The obligation to maintain any Common Property which is annexed to the Community independent of Units shall commence on conveyance of such Common Property to the Association by grant in fee or by easement for maintenance.

2.3. WATER CONSERVATION MEASURES. The Governing Documents impose maintenance and irrigation requirements and appearance standards for the landscaping in the Community. All such requirements and standards shall be interpreted and enforced by Owners and the Association only in accordance with governmental water conservation measures then in effect, whether they are imposed by court decision, or by the state, the County, the City or the water district, and whether they are in the form of executive order, statute, regulation or district water conservation ordinance. Water conservation measures may be temporary or permanent, and they may include, among other things, limits on watering hours and duration, outright prohibition of landscape watering, irrigation system design requirements, restrictions on certain plant species, and restrictions on the filling or refilling of swimming pools and spas. In the event the Community is subjected to multiple water conservation measures imposed by any or all of the foregoing governmental entities, the most restrictive shall control over the Governing Documents and over any other less-restrictive measures while it is in effect.

2.4. ACCEPTANCE OF COMMON PROPERTY; EXONERATION OF SECURITY. The Association must accept ownership of and maintenance responsibility for each portion of Common Property when title and maintenance responsibility are tendered by Declarant, whether in fee simple, by easement, or otherwise, and the Association shall indicate its acceptance thereof by executing the applicable deed, grantee acceptance and escrow instructions when they are tendered by Declarant.

2.4.1. Accrued Reserves. If more than 30 days elapse between completion of a particular Common Property Improvement and its conveyance to the Association, the Declarant shall contribute to the Association's Reserve Fund cash representing reserves (as estimated under the then-current Budget) which have accrued on the Improvement from completion (as evidenced by a Notice of Completion under Civil Code Section 8182 or other reasonable evidence of completion) to the date of conveyance.

2.4.2. Exonerations. The Association shall concurrently execute and deliver all exonerations of securities related to the Common Property when presented by Declarant, if the bonded obligations are satisfied, and without regard to any other dispute or controversy with Declarant. No Owner shall interfere with the exercise of the foregoing obligations by the Association, or with the rights or obligations of Declarant.

2.4.3. Pre-Turnover Inspections. Declarant shall have the right to have a representative present at any pre-turnover inspection conducted by the Association and its Manager, and the Association shall inform Declarant with reasonable prior written notice of the time and date of such inspection, so that Declarant may arrange to have a representative present.

2.5. INSPECTION OF THE COMMUNITY. The Board shall require strict compliance with all provisions of this Declaration and shall periodically cause the Design Review Committee to conduct a compliance inspection of the Community to discover and report any violations of the Governing Documents. The Board shall also conduct no less frequently than annually a visual inspection of the Common Property and all Improvements thereon to determine the condition of said Improvements ("*Condition Inspections*"), which shall be conducted in conformance with the applicable Maintenance Guidelines and any Maintenance Manual (such Condition Inspections shall be required more frequently if directed in the Maintenance Guidelines) and performed in a manner reasonably consistent with the inspection standards established for the reserve study to be conducted pursuant to the Bylaws, although nothing in this Section requires the Board to hire consultants to perform Condition Inspections or that a reserve study be prepared in connection with each Condition Inspection. Condition Inspections shall, at a minimum:

2.5.1. Determine whether the Common Property is being maintained adequately in accordance with the standards of maintenance established in Section 2.1.1;

2.5.2. Identify the condition of the Common Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair; and

2.5.3. Recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future.

In conformance with California Civil Code Section 5551 of the CID Act, the load-bearing components of specified exterior elevated elements of Condominium Buildings (which may include, for example, decks, balconies, stairways, walkways and their railings) if any, shall be inspected at least once every nine (9) years, and the results shall be reported, all in compliance with the current definitions and requirements of the applicable statute.

During the period described in Section 2.6.2 below, Declarant shall be entitled to reasonable prior written notice of the Condition Inspections conducted by the Board, and shall have the right to have its representatives present to observe such Condition Inspections. The Board shall, during its meetings, regularly determine whether the required inspections and maintenance activities set forth in any applicable Maintenance Guidelines or Maintenance Manual have been followed and, if not followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Common Property. The Board shall keep a record of such determinations in the Board's minutes. The Board shall keep Declarant fully informed of the Board's activities under this Section 2.5. The Board shall employ, consistent with reasonable cost management, such experts, contractors and consultants as are necessary to perform the inspections and make the reports required by this Section.

2.6. REPORTING REQUIREMENTS. The Board of the Association shall prepare for and distribute to the Owners a report of the results of the inspection required by this Section. The Board shall also furnish a copy of the same report to Declarant within the time set for furnishing the Budget to the Owners.

2.6.1. Contents of Report. The report must include at least the following:

- (a) A description of the condition of the Common Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) A description of all maintenance, repair and replacement planned for the ensuing Fiscal Year and included in the Budget;
- (c) If any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) A summary of all reports of inspections performed by any expert, contractor or consultant employed by the Association to perform inspections since the Board's last Condition Inspection report;
- (e) A report of the status of compliance with the maintenance, replacement and repair needs identified in the Condition Inspection report for preceding years and identified in any applicable Maintenance Guidelines; and
- (f) Such other matters as the Board considers appropriate.

2.6.2. Delivery to Declarant. Until the later of the date which is ten (10) years after the date of the last Close of Escrow in the Community, or until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Right to Repair Act (including tolling periods), the Board shall also furnish to Declarant (A) the report of each Condition Inspection performed for the Board, whenever such Condition Inspection is performed and for whatever portion of the Common Property that is inspected, within thirty (30) days after the completion of such Condition Inspection, and (B) the most recent Condition Inspection report prepared for any portion of the Common Property, within ten (10) days after the Association's receipt of a written request therefor from Declarant.

2.7. WATER METERS. Each Owner, by acceptance of a deed, acknowledges that water service is not separately metered by the water provider to measure individual condominium usage, but is instead delivered through a limited number of meters serving groups of Condominium Buildings. Individual use is measured by private submeters serving each of the Units. The Association will receive a single water bill from the City, representing all water provided to the Community during the billing period. Other utility services are separately metered to the Units by the utility providers.

2.7.1. Allocation of Bills. Each Owner will be responsible for paying for the water supplied to the Owner's Unit, as measured by the water submeter installed for each Unit. To calculate the cost chargeable to each Unit for water service, the Association will hire a metering service company (the "*Metering Company*") to read the water submeters and prepare the individual water bills for delivery to each Owner. Each Owner will pay the amount shown in the water bill to the Metering Company. The Metering Company will remit amounts paid by each Owner to the Association, so that the Association is reimbursed for the cost of water used

by Owners. The Metering Company's service charge will be a component of Common Expenses paid through Annual Assessments. The Metering Company will provide to the Association a statement of all amounts received from the Owners on a regular basis. If an Owner fails to pay any amounts when due, the Owner will be responsible for any penalties or delinquent amounts levied by the Metering Company. If, in the future, there are no companies which can provide the submetering service, the Association will be responsible to allocate water usage costs to each individual Owner as measured by submeters or an equivalent method.

2.7.2. Default. Any Owner who fails to timely pay his water bill to the Metering Company is in violation of this Section, and the Association may pursue reimbursement directly from the Owner by means of a Special Assessment or such other remedies as are available under applicable law, including shutting off water service to the Owner's Unit.

2.7.3. Submeters. Each Owner shall also have the obligation to maintain the water submeter in the Owner's Unit. If an Owner fails to maintain the submeter, the Association shall have the power to maintain the submeter and charge the cost thereof to the Owner as a Special Assessment or pursue any other remedies as provided under this Declaration.

2.7.4. Deposits. Upon the Close of Escrow for each Unit, and on any subsequent sale of a Unit by an Owner, such Owner shall be obligated to pay to the Association a deposit in an amount equal to one (1) month's average water bill for a Unit within the Community (as determined by the Association) as security for the Owner's obligation to pay the water bill when due. As provided above, the Association may apply such deposit in payment of a Defaulting Owner's water bill and such Owner shall replace the full amount of such deposit promptly upon written notice from the Association. The Association shall, within thirty (30) days after receiving written notice from an Owner that such Owner has sold Owner's Unit (provided that the subsequent Owner has paid a replacement security deposit in the amount determined appropriate by the Association) return to the Owner any amounts not expended by the Association from such Owner's deposit. The Association may increase the amount of such security deposits and require the deposit of additional amounts by the Owners, based on increases in such water bills.

2.8. SINGLE-FAMILY DWELLING. Subject to Sections 2.10 and 2.12 below, the Unit shall be used as a residential dwelling for a single Family and for no other purpose.

2.9. FURTHER SUBDIVISION. Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide the Owner's Condominium in any manner, including dividing such Owner's Condominium into time-share estates or time-share uses. This provision does not limit the right of an Owner to rent or lease the Condominium pursuant to Section 2.11 below.

2.10. LEASING AND RENTAL.

2.10.1. Leasing or Rental to Declarant. Nothing in this Declaration shall be deemed to prevent an Owner from leasing or renting the Condominium to Declarant (a) for use as sales offices, model home, parking area, or (b) other residential or non-residential purposes.

Declarant may not lease any portion of the Association Property to the Owners or the Association.

2.10.2. Leasing or Rental to Non-Declarant Parties. Nothing in this Declaration shall be deemed to prevent an Owner from leasing or renting the Condominium for residential occupancy by a single Family, provided that:

(a) the terms of possession and occupancy are set out in a written lease or rental agreement, a copy of which will be provided to the Board at the commencement of the lease or rental term and a copy of any amendment or extension will be provided at the commencement of any extension term;

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

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

(d) the lessor or landlord shall not provide any services normally associated with transient occupancy (including hotel, inn, bed & breakfast, vacation rental, time-share or similar temporary lodging), such as providing meals, daily or weekly cleaning service or furnishing linens, cooking utensils or other household items; and

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

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

2.11. RESALE. Nothing in this Declaration shall be deemed to prevent an Owner from transferring or selling the Condominium, either to a single Person, or to more than one (1) Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property.

2.12. BUSINESS AND COMMERCIAL ACTIVITIES.

2.12.1. Generally. No Owner or other occupant of the Community may undertake any activity in any Condominium nor use any portion of the Common Property, for

any business, commercial or Non-Residential Purposes (as defined below), nor for any other purpose that is inconsistent with the Governing Documents. Such purposes include manufacturing, storage, vending, auctions, vehicle or equipment repair, entering into any lease or rental agreement or other occupancy agreement under which the Unit would be occupied by numbers of persons in excess of the maximum occupancy permitted under applicable law, and transient occupancy of the Unit (such as hotel, inn, bed & breakfast, vacation rental, time-share or similar temporary lodging). Any lease or rental agreement or other occupancy agreement for a term of fewer than thirty (30) days, and any lease or rental agreement or other occupancy agreement pursuant to which the lessor/Owner provides any services normally associated with transient occupancy, shall be deemed to be for transient purposes and prohibited under this Declaration. All of the foregoing activities are prohibited whether they are engaged in full-time or part-time, whether they are for-profit or non-profit, and whether they are licensed or unlicensed.

2.12.2. **Exceptions.** This Section shall not be interpreted to prohibit any of the following:

(a) The hiring of employees or contractors to provide maintenance, construction or repair services that are consistent with the Governing Documents;

(b) Rental or leasing of a Unit to Declarant for use as a sales office, model homes or parking area for any period of time;

(c) Exercise by Declarant of any rights reserved to it under Article 15;

(d) The provision of in-home health care or assisted-living services to any resident of the Community;

(e) The provision of family home child care services as defined in California Health and Safety Code Section 1597.40, *et seq.*, so long as such services comply with all applicable state and local laws, including licensing, inspection and zoning requirements. Provided, however, that the Association has the power to limit or prohibit use of parks, recreational facilities and other common amenities in the Association Property by clientele of the business;

(f) Small home-based service businesses (each, a "**Non-Residential Use**") that comply with all of the following (which include limitations and restrictions pursuant to the FHA Requirements):

(i) The total floor area used in any particular Unit for Non-Residential Uses shall not exceed twenty-five percent (25%) of the Unit's total floor area;

(ii) The aggregate floor area used for Non-Residential Uses among all the Units in the Community shall not exceed twenty-five percent (25%) of the total floor area of all Units in the Community; and

(iii) The Non-Residential Use shall be ancillary and "subordinate" (as used in the FHA Requirements) to the Owner's use of the Unit for the residential purposes described in this Declaration;

(iv) The Non-Residential Use shall be of a nature that is consistent with or "homogenous" (as used in the FHA Requirements) with residential use, meaning it does not create a nuisance to, or impose adverse conditions on, the other residents of the Community, and it is consistent with the residential nature of the Community;

(v) No unoccupied Unit may be used solely for Non-Residential Uses; in all events, the operator of any Non-Residential Use in a particular Unit must live in the Unit on a permanent, full-time basis;

(vi) When conducted in the Community, Non-Residential Use activities take place solely inside the Unit;

(vii) Visits by clientele or suppliers are limited to regular business hours and clientele and suppliers park their vehicles only in the garage of the Condominium;

(viii) The Non-Residential Use complies with all laws, regulations and ordinances applicable to the Community, including zoning, health and licensing requirements;

(ix) The Non-Residential Use otherwise complies with the Declaration;

(x) The operator of the Non-Residential Use posts no business-related signage anywhere in the Community;

(xi) Other than visits by clientele or suppliers, there is no visible evidence in the Community of the Non-Residential Use;

(xii) The Non-Residential Use does not generate noise or odors that are apparent outside the Residence; and

(xiii) The Non-Residential Use does not increase the Association's liability or casualty insurance obligation or premium.

(g) Other activities that have been determined by Local Government Agencies to be consistent with the single-family residential uses in the Community, including, for example, residential care facilities that are operated in accordance with California Health and Safety Code Section 1566.5.

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

2.13.1. Nuisance Devices. Nuisance devices may not be kept or operated in the Community or on any public street abutting the Community, or exposed to the view of other Condominiums or Common Property. Nuisance devices include the following:

- (a) All horns, whistles, bells or other sound devices (except security devices used exclusively to protect the security of a Unit or a vehicle and its contents);
- (b) Noisy or smoky vehicles, power equipment (excluding lawn mowers and other equipment used in connection with ordinary landscape maintenance), and Restricted Vehicles (defined below);
- (c) Devices that create or emit loud noises or noxious odors;
- (d) Construction or demolition waste containers (except as permitted in writing by the Committee);
- (e) Devices that unreasonably interfere with television or radio reception to a Condominium;
- (f) Plants or seeds infected with noxious insects or plant diseases; or
- (g) The presence of any other thing in the Community which may (1) increase the rate of insurance in the Community, (2) result in cancellation of the insurance, (3) obstruct or interfere with the rights of other Owners or the Association, (4) violate any law or provisions of the Governing Documents, or (5) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

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

- (a) Subject to Section 2.19.1(c), hanging, drying or airing clothing, fabrics or unsightly articles in any place that is visible from other Condominiums, Common Property or public streets;
- (b) The creation of unreasonable levels of noise from parties, recorded music, radios, television or related devices, or live music performance;
- (c) The creation of unreasonable levels of noise from a barking dog or other animal kept in the Community (for example, chronic daily nuisance barking by a dog over extended periods of time);
- (d) Repair or maintenance of vehicles or mechanical equipment, except in a closed garage screened from view by other Condominiums or Common Property;
- (e) Outdoor fires, except in barbecue grills and fire pits designed and used in such a manner that they do not create a fire hazard; or

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

(g) Any activity which may (1) increase the rate of insurance in the Community, (2) result in cancellation of the insurance, (3) obstruct or interfere with the rights of other Owners, (4) violate any law or provisions of the Governing Documents, or (5) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.14. **SIGNS.** Subject to California Civil Code Sections 712, 713 and 4710, and any applicable Design Guidelines, no sign, advertising device or other display of any kind shall be displayed in the Community or on any public street in or abutting the Community except for the following signs:

2.14.1. **Traffic and Parking Control.** Entry monuments, Community identification signs, and traffic or parking control signs maintained by the Association;

2.14.2. **Addressing.** For each Condominium, one (1) nameplate or address identification sign which complies with Design Review Committee rules;

2.14.3. **Security.** For each Condominium, one (1) sign advising of the existence of security services protecting a Condominium which complies with Design Review Committee rules;

2.14.4. **For Sale or Lease Signs.** For each Condominium, one (1) sign advertising the Condominium for sale or lease that complies with the following requirements:

(a) the sign has reasonable design and dimensions (which shall not exceed eighteen (18) inches by thirty (30) inches in size), provided the sign is promptly removed at the close of the resale escrow or the lease, or upon the Owner's withdrawal of the Condominium from the resale or lease market; and

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

The Association may adopt in its Rules and Regulations different or additional restrictions on the design and dimensions of for sale and for lease signs, for consistency with the existing practice of the local real estate board, if any. In the event of a conflict with the foregoing, the Rules and Regulations shall prevail without having to amend this Declaration.

2.14.5. **Certain Noncommercial Signs.** For each Condominium, a noncommercial sign, poster, flag or banner must comply with the following requirements:

(a) a noncommercial sign or poster must not be more than nine (9) square feet in size and a noncommercial flag or banner must not be more than fifteen (15) square feet in size; and

(b) a noncommercial sign, poster, flag or banner may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.

2.14.6. **Other Authorized Signs.** Other signs or displays authorized by the Design Review Committee, and which comply with applicable Conditions of Approval.

2.15. **PARKING AND VEHICULAR RESTRICTIONS.**

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

2.15.2. **Authorized Vehicle.** An "Authorized Vehicle" is an automobile, a passenger van designed to accommodate ten (10) or fewer people, a motorcycle, or a pickup truck having a manufacturer's rating or payload capacity of one (1) ton or less. The Association has the power to identify additional vehicles as Authorized Vehicles in the Rules and Regulations in order to adapt this restriction to other types of vehicles that are not listed above.

2.15.3. **Restricted Vehicles.** The following vehicles are "Restricted Vehicles:" (a) large commercial-type vehicles (for example, stake bed trucks, tank trucks, dump trucks, step vans, and concrete trucks), (b) buses, limousines or vans designed to accommodate more than ten (10) people, (c) inoperable vehicles or parts of vehicles, (d) aircraft, (e) boats, jet skis and other water craft, (f) trailers (for example, trailers designed for horses, boats, motorcycles or other equipment or materials), (g) motor homes and recreational vehicles (for example, fifth-wheels, folding camping trailers, travel trailers, but not including van conversions and truck campers), (h) any vehicle or vehicular equipment deemed a nuisance by the Association, (i) any other vehicle that violates a City ordinance, and (j) any other vehicle that is not classified as an Authorized Vehicle. If a vehicle qualifies as both an Authorized Vehicle and a Restricted Vehicle, then the vehicle is presumed to be a Restricted Vehicle, unless the vehicle is expressly authorized in writing by the Association. The Association has the power to identify additional vehicles as Restricted Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles that are not listed above.

2.15.4. **Parking Management Plan.**

(a) **Restricted Vehicles.** No Restricted Vehicle may be parked, stored or kept in the Community except for periods of two (2) hours or less in any twenty-four (24) hour period during loading, unloading, or emergency repairs. However, an Owner may park a Restricted Vehicle in the garage as long as the garage is kept closed and the presence of the Restricted Vehicle does not prevent Owner's other Authorized Vehicles from being parked in the garage at the same time.

(b) **Garage Parking.** Each Owner shall at all times ensure that the garage accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant. The garages shall be used for parking of vehicles and storage of personal property only. No garage may be used for any dwelling, commercial, recreational, or other purpose. Garage doors must be kept closed except as necessary for entry or exit of vehicles or Persons.

(c) **Interior Alleys.** Pursuant to the Conditions of Approval, on-street parking along the interior alleys is prohibited, except in marked parking stalls. Vehicles may be stopped in the interior alleys for brief periods during loading or unloading, but when present in the interior alley, stopped vehicles must be positioned or moved so that they do not interfere with normal use of the interior alley by other Owners or visitors.

(d) **Fire Lanes.** No vehicles may be parked in any fire lanes. Fire Lanes may be identified by signs and/or red-painted curbs.

(e) **Association Property Parking Spaces.** Marked parking stalls in or adjoining the Private Streets (collectively, "**Association Property Parking Spaces**") are intended for temporary, short-term use by residents and their invitees only. Association Property Parking Spaces are unreserved and unassigned, and they are available on a strict first-come-first-served basis. The Association Property Parking spaces shall not be used for long-term parking (more than 72 hours in any seven day period). In no event may any of the Association Property Parking Spaces be used for long-term parking or permanent storage of any vehicle or other personal property. The Board may, but is not required to, impose additional restrictions on Association Property Parking Spaces, which may include (without limitation) the establishment of a permit parking program. In addition, notwithstanding the limitations set forth in this Section 2.15.4(e), the Board may, but is not required to, adopt Rules and Regulations to permit longer-term parking of Authorized Vehicles in the Association Property Parking Spaces by residents or their guests in the event an Owner an oversized Authorized Vehicle that will not fit in Owner's garage, an Owner has more vehicles than the garage was originally constructed to accommodate, to accommodate long-term parking by guests of an Owner, or other extenuating circumstances as may be set forth in the Rules and Regulations.

2.15.5. **Repair, Maintenance and Restoration.** No Person may repair, maintain or restore any vehicle in the Community, unless the work is conducted in the garage with the garage door closed if proper venting can be provided for safety purposes. However, no Person may carry on in any portion of the Community any vehicle repair, maintenance or restoration business.

2.15.6. **Enforcement.** The Board has the right and power to enforce all parking and vehicle use regulations applicable to the Community, including the removal of violating vehicles from parking areas in the Community in accordance with California Vehicle Code Section 22658 or other applicable laws; provided, however, that upon request of the City, the Board shall take all actions necessary to apply California Vehicle Code Sections 21107.5, 21107.6, 21107.7 and 21107.8 to the Community. The City/County may, but is not required to, enforce such restrictions, rules and regulations, in addition to applicable laws and ordinances.

2.15.7. **Regulation and Restriction by Board.** The Board has the power to: (a) establish additional rules and regulations concerning parking in the Association Property, including designating "parking," "guest parking only," and "no parking" areas, (b) prohibit any vehicle parking, operation, repair, maintenance or restoration activity in the Community if it determines in its sole discretion that the activity is a nuisance, and (c) promulgate rules and regulations concerning vehicles and parking in the Community as it deems necessary and desirable.

2.16. ANIMAL REGULATIONS.

2.16.1. Restrictions on Numbers and Types of Pet Animals. No commercial or farm livestock, including poultry, may be kept in the Community. However, a reasonable number of pet dogs and pet cats may be kept in each Unit, subject to applicable law, the Governing Documents, and such rules and regulations as may be adopted by the Board, including weight and size limitations. In addition to pet dogs and pet cats, but subject to local ordinances and such Rules and Regulations as may be adopted by the Board, residents may keep in the Condominium reasonable numbers of small household pets that live in containers or cages, including fish, rodents and birds, so long as there is no external evidence of their presence in the Community. Notwithstanding the foregoing, no person may bring or keep in the Community any dog that satisfies the definition of "vicious dog" under the Potentially Dangerous and Vicious Dogs Law at California Food and Agriculture Code Section 31601, et seq., nor any animal that is determined by the Board to be a nuisance to other residents in the Community. The Board has the power and discretion to determine whether the types or numbers of any animals kept in a Condominium are a nuisance, and the Board shall have the power to abate the nuisance through any legal procedure that is available to the Association. The Board may from time to time, by duly adopted Rule and without having to amend this Declaration, change the numbers of dogs or cats or types of animals that may be kept in the Condominiums (subject at all times to limits set by applicable law), and in such event, the duly adopted Rule shall control over the limits stated in this Section 2.16.1.

2.16.2. Reasonable Accommodations for Service Animals. Also notwithstanding the limitations on numbers and types of animals in Section 2.16.1, the Board shall, without having to amend Section 2.16.1, make reasonable accommodations allowing residents with legally recognized disabilities to keep service animals in their homes on receipt of reasonable evidence: (a) that a resident of the Unit has a legally recognized disability; (b) that the service animal is properly trained to provide a necessary service for the disabled resident, and (c) showing that the animal meets the criteria for service animals set forth in state and federal law and regulation. Qualified service animals shall not be counted as pet animals for purposes of the numeric limits in Section 2.16.1, nor shall any limitations on the types of animals set forth in Section 2.16.1 apply to a qualified service animal. Qualified service animals permitted under this Section 2.16.2 remain subject to Sections 2.16.3 and 2.16.4 and the provisions of Sections 2.13 and 2.16.1, concerning the Association's rights and powers to abate nuisances.

2.16.3. Animal Keeping Areas. Residents are advised to choose pets that can be kept indoors at all times without disturbing neighbors. Subject to restriction by the Board in accordance with applicable law, this Section, and subject to the Association's right to abate nuisances under Section 2.13 above, all animals belonging to an Owner, or to a resident member of an Owner's Family, or brought into the Community by contractors, tenants, guests, employees, or invitees, must at all times be kept under the control of a Person capable of controlling the animal either on a leash or other appropriate restraint or in a carrier, except when inside the Unit. No animal may be left unattended in any part of the Association Property or in any Exclusive Use Area for any period of time, regardless of whether the animal is restrained or in a cage or container. Cages, containers, bedding, litter boxes, food containers and bowls must be kept inside the Unit at all times.

2.16.4. Owner Responsibility. The Owner of the Unit shall be solely responsible for ensuring that there is no external evidence of the presence of any animals kept by the Owner or by the other residents of the Unit (including unreasonable noise or noticeable odor). Furthermore, each Owner shall be absolutely liable to each and all other Owners, their Families, tenants, residents and guests for damages or injuries caused by any animals brought or kept in the Community by an Owner, by members of the Owner's Family, or by the Owner's guests, tenants or invitees. Each Owner shall immediately remove any excrement or clean other unsanitary conditions caused by such Owner's animals on any portion of the Community.

2.17. ANTENNA AND SATELLITE DISH RESTRICTIONS. No Person may install in the Community any antenna or over-the-air receiving device except for an "Authorized Antenna."

2.17.1. Definition of Authorized Antenna. An Authorized Antenna is (a) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one (1) meter or less in diameter, (b) an antenna designed to receive video programming service, including multi-channel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one (1) meter or less in diameter or diagonal measurement, (c) an antenna designed to receive television broadcast signals, or (d) an antenna used to receive and transmit fixed wireless signals. The foregoing definition is not intended to prohibit cordless or wireless telephones, PDAs, computers, wireless home data networking equipment or other portable wireless data or telephony devices that do not otherwise constitute a nuisance device under the Governing Documents.

2.17.2. Mounting on Mast. An Authorized Antenna may be mounted on a mast to reach the height needed to receive an acceptable quality signal, subject to Local Governmental Agency permitting requirements for safety purposes. No mast shall be installed in such a way that it overhangs the deck railing, or any portion of the Association Property outside the Exclusive Use Area, or poses a threat of damage to property or injury to persons.

2.17.3. Preferred Installation Locations and Restrictions on Installation. The Exclusive Use Area decks are preferred installation locations for the Authorized Antenna, subject to applicable restrictions and prohibitions in this Declaration. The Committee may adopt reasonable restrictions on installation and use of an Authorized Antenna as part of its Design Guidelines in order to minimize visibility of the Authorized Antenna from other Condominiums. Such restrictions may designate one (1) or more additional preferred installation locations, or require camouflage such as paint (subject to the antenna manufacturer's recommendations) or screening vegetation or other Improvements. However, no restriction imposed by the Committee may (a) unreasonably delay or prevent the installation, maintenance or use of an Authorized Antenna, (b) unreasonably increase the cost of the installation, maintenance or use of an Authorized Antenna, or (c) preclude acceptable quality reception.

2.17.4. No Obligation to Permit Use of Alternative Locations. The Association is under no obligation to permit any Person to install or relocate any Authorized Antenna or any other device to any area outside the Exclusive Use Area deck, for any reason, including a particular Owner's inability to receive a signal from the Exclusive Use Area deck.

2.17.5. Prohibitions on Installation. No Authorized Antenna or any other device may be installed in the Association Property, including landscaped areas and exterior surfaces of the Condominium Building (such as the roof, fascia, chimneys, patio walls and exterior wall surfaces). Authorized Antennae may be installed in Exclusive Use Area decks on a mast or tripod, but no Person may make any installation that penetrates the exterior surface of any portion of the Condominium Building, including deck railings. The Committee may prohibit the installation of an Authorized Antenna in a particular location (including an Exclusive Use Area) if, in the Committee's opinion, the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of the Owners or any other Person, or for any other safety-related reason established by the Committee. The Committee may also prohibit an Owner from installing an Authorized Antenna on any real property which such Owner does not own or is not entitled to exclusively use or control under the Governing Documents. The Committee also has the power to prohibit or restrict the installation of any antenna or other over-the-air receiving device that does not meet the definition of an Authorized Antenna as set forth above. Owners shall be solely liable to the Association and the other Owners for any damage to the Condominium Building, to individual Condominiums, and to their contents (including water damage) that results from negligent installation or installation in violation of this Section 2.16.

2.17.6. Review after Installation. The Committee may review the location and installation of an Authorized Antenna after it is installed. After its review, the Committee may require that the Authorized Antenna be moved to a preferred location (if one has been designated) for safety reasons or to comply with reasonable restrictions subject to this Section and applicable law.

2.17.7. Restatement of Applicable Law. This Section is intended to be a restatement of the authority granted to the Committee under the law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna or over-the-air receiving device shall be interpreted to amend, modify, restate or interpret this Section.

2.18. TRASH. Trash and recyclables must be stored in closed sanitary containers. No trash, recyclable materials or containers may be stored in view of other Condominiums or Common Property, except that closed containers may be set out in the designated area shown on *Exhibit E* attached hereto for a reasonable period of time on trash collection days (not to exceed twelve (12) hours before and after scheduled trash collection hours). When placed in the designated area on trash collection days, the containers must be placed in an orderly manner such that pedestrian and vehicular traffic and emergency access are not impeded. At all other times, Owners must store closed trash containers in the garage, out of sight of other Condominiums and Common Property, until scheduled collection times. The Board has the power to make additional Rules and Regulations concerning the disposal of trash and recyclables, consistent with City ordinances and the Conditions of Approval.

2.19. OWNER-INSTALLED IMPROVEMENTS.

2.19.1. Outdoors. No Person may install outdoors in sight of the Common Property or other Condominiums, any patio cover, wiring, air conditioning equipment, heating units, water softeners, or similar permanently attached Improvements. No Person may install or

remove landscaping or irrigation equipment in the Common Property without the prior written consent of the Committee, which consent it may withhold in its discretion. No Person may make any additions or alterations to the structural components or exterior of any Condominium Building or any other Improvement in the Common Property, without the prior written consent of the Committee, which consent it may withhold in its discretion.

(a) **Outdoor Furnishings.** Outdoor patio or lounge furniture and plants may be kept in Exclusive Use Area deck in accordance with the Design Guidelines. No furniture may be kept on any porch or stoop. The Board may adopt Design Guidelines regulating the type, size, design, color, and quantity of outdoor furnishings that may be kept in the Exclusive Use Areas.

(b) **Flags.** Outdoor display of the flag of the United States is permitted pursuant to California Civil Code Section 4705, as long as the flag and flag pole are located solely within, on and over the Owner's Exclusive Use Area deck.

(c) **Clotheslines and Drying Racks.** Clotheslines and drying racks meeting the definitions in California Civil Code Sections 4753(a) and (b), may be placed in the Exclusive Use Area deck. The Association has the power to establish Design Guidelines to minimize the visibility of the clotheslines and drying racks from the Common Property and other Condominiums so long as they do not effectively prohibit or unreasonably restrict the Owner's ability to use the clothesline or drying rack, and do not significantly increase its cost to use.

(d) **Storage Restrictions.** No Exclusive Use Area shall be used for storage of trash, construction materials, inventory or equipment, including bicycles, surfboards, exercise equipment or athletic equipment.

2.19.2. **Indoors.** No Owner or other resident of the Community may apply paint, foil, film, or other reflective material to the glass portion of any window in the Unit. This Section shall not be interpreted to prohibit the installation of blinds, shutters, curtains and similar indoor window coverings. Pending installation of permanent window coverings, Owners may cover windows with temporary white blinds up to ninety (90) days after the Close of Escrow.

2.19.3. **Holiday Decorations.**

(a) **Duration of Display.** Outdoor holiday decorations, or indoor holiday decorations that are visible from outside, shall be displayed for a reasonable period of time prior to the date of the holiday, as determined by the Association in its Rules and Regulations, but they shall be removed no later than fourteen (14) days after the date of the holiday, unless prior written authorization has been granted by the Board to remove them at a later date.

(b) **No Penetrating Attachment.** Subject to a more restrictive Rule adopted by the Board, lights and other outdoor decorations may not be stapled, nailed, or otherwise permanently attached to any outdoor surface of the Condominium Building (including such areas as the Condominium Building exterior walls, siding, stucco, trim, parapet walls, railings, roof, fascia, barge boards, entry door and garage doors). However, subject to a more restrictive Rule adopted by the Board, lights and decorations may be temporarily attached to

surfaces inside the Exclusive Use Areas with non-penetrating fasteners and clips. Wreaths and similar decorations may be placed on entry doors with appropriate non-penetrating hangers. Except as authorized in writing by the Board, no Person shall be permitted access to the roof of any Condominium Building in connection with the mounting or removal of holiday decorations. The Board has the power to withhold such consent in its sole discretion.

2.19.4. Structural Modification. Except as otherwise expressly provided in this Declaration, no Person may modify any Condominium Building or any other Association Property (including walls, foundation, roof or fire sprinklers) if the modification will impair the structural integrity or fire safety of the Unit or neighboring Units. No Owner may pierce or remove or otherwise modify any fire wall assembly or other interior common wall separating adjoining Units.

2.19.5. Noise Mitigation. No Owner may take any actions that may interfere with structural noise mitigation Improvements installed in the Condominium by Declarant. Owners are further prohibited from (a) puncturing, piercing or otherwise altering any walls shared with another Condominium, if any, (b) installing any sound system, loudspeakers, entertainment system or other music-, sound- or noise-generating or amplifying device in any walls or ceiling of an attached Condominium, and (c) installing any tile or other hard surface flooring on the upper levels of an attached Condominium without the prior written approval of the Design Review Committee. Declarant may have installed noise mitigating floor materials in upper floors or wall Improvements in walls shared with an adjoining Condominium. No Owner shall remove any Declarant-installed noise mitigation Improvements without replacing it with materials offering the same, substantially similar or better noise mitigation as the materials that were originally installed by Declarant.

(a) **Approval.** Before installation of hard-surface flooring or replacement of any existing noise mitigating materials that may have been installed in walls, floors or ceilings, the Owner shall present the Design Review Committee with written documentation from a licensed engineer, architect or other consultant with qualifications reasonably acceptable to the Committee that the noise mitigating properties of the proposed flooring or wall material are the same as, substantially similar to, or better than the materials originally installed by Declarant.

(b) **Violations.** If the Committee determines that an Owner has installed hard-surface flooring in violation of this Section, then the Committee shall have the power to require the violating Owner to replace the flooring with flooring that is identical to, or, if such flooring is no longer available, replacement flooring (and underlayment as applicable) that provides the same or better noise mitigation performance as that which was installed in the original construction of the Condominium Building. Removal and replacement shall be at the violating Owner's sole expense. These same rules apply to any unauthorized removal or replacement of any noise-mitigating Improvements by an Owner or at an Owner's direction.

2.19.6. No Liability. Neither the Declarant nor the Association shall be liable or responsible for any damage that results from Improvements installed, constructed or modified by or at the direction of an Owner. Owners are advised to consult and use qualified consultants

and contractors when installing, constructing or modifying Improvements on the Owner's Condominium.

2.20. **MECHANICS' LIENS.** No Owner may cause or permit any mechanic's lien to be filed against the Common Property or another Owner's Condominium for labor or materials alleged to have been furnished or delivered to such Owner. Any Owner who permits a mechanics' lien to be so filed shall cause the lien to be discharged no later than five (5) days after receipt of written notice to discharge the lien is received from the Board. If the Owner fails to remove a mechanic's lien after written notice from the Board, the Board may discharge the lien and levy a Special Assessment against the violating Owner's Condominium to recover the cost of discharge.

2.21. **DRAINAGE.** There shall be no interference with or obstruction of the established surface drainage pattern(s) over any Condominium in the Community, unless an adequate alternative provision is made for proper drainage and approved by the Design Review Committee.

2.21.1. **Established Drainage.** Any alteration of the established drainage pattern must at all times comply with all applicable requirements of Local Government Agencies. For the purpose hereof, "Established Drainage" is defined as the drainage which exists at the time of the first Close of Escrow for the sale of the Condominium by Declarant, or as shown on any plan approved by the Committee. Established Drainage includes drainage from Condominium to Condominium and to and from property lying outside the Community.

2.21.2. **Surface Drainage Improvements; Sub-Drains.** The Established Drainage on a Condominium may consist of any or all of the following: earthen or concrete drainage swales, concrete channels, catch basins with underground drainage pipelines, roof-mounted gutters or downspouts (collectively, "*Surface Drainage Improvements*"). In addition, one or more drain lines may have been installed beneath the surface of the Condominium or Exclusive Use Area (each, a "*Sub-Drain*"). Surface Drainage Improvements and Sub-Drains and appurtenant Improvements constructed or installed by Declarant (if any) provide for collection and drainage of surface waters from each Condominium and from elsewhere in the Community to proper points of disposal. Owners shall ensure that scuppers and drains in Exclusive Use Area decks remain free of obstructions at all times. There shall be no modification to the Established Drainage or Surface Drainage Improvements or Subdrains by any Owner.

2.21.3. **Maintenance of Drainage Improvements.** Each Owner must maintain, and keep free of debris and obstructions all Surface Drainage Improvements and Sub-Drains located on or under the Condominium or Exclusive Use Area, except those for which the Association or a public authority or utility are responsible. To ensure adequate drainage within the Community, it is essential that the Surface Drainage Improvements and the Sub-Drains, if any, not be modified, removed or blocked without having first made alternative drainage arrangements. Therefore, no Owner may install, alter, modify, remove or replace any Surface Drainage Improvements or Sub-Drains on or under the Owner's Condominium or Exclusive Use Area without first making alternative drainage arrangements approved in writing by the

Committee and by applicable governmental agencies. Owner-installed irrigation systems must be installed and maintained to prevent excess runoff and accumulation of surface water.

2.21.4. **Grading.** The grading design in the Community should not be altered to redirect surface water flow toward the Condominiums or onto adjacent property, or to trap water so that it ponds or floods. Grading modifications are subject to law, approval by the Board, and the terms of any Recorded drainage easements.

2.22. **WATER SUPPLY SYSTEM.** No individual water supply, sewage disposal or water softener system is permitted on any Condominium unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water district having jurisdiction, the City, the Design Review Committee and all other applicable governmental authorities with jurisdiction.

2.23. **VIEW OBSTRUCTIONS.** Each Owner acknowledges that (a) there are no protected views in the Community, and no Condominium is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping (including the growth of landscaping) or other installation of Improvements by Declarant or other Owners may impair the view from any Condominium, and each Owner hereby consents to such view impairment.

2.24. **OWNER-INSTALLED SOLAR ENERGY SYSTEMS.** California has a strong public policy in favor of solar heating and solar energy generating systems (each, a "**System**"). California policies and applicable laws, including the Solar Shade Control Act (Public Resources Code Section 25980, *et seq.*) and the Solar Rights Act (Civil Code Section 714, *et seq.*) protect each Owner's right to place and maintain equipment and facilities necessary to operate a residential System, all subject to reasonable restrictions imposed by the Association. Therefore, each Owner may install a solar energy system (as defined in California Civil Code Section 801.5) to serve the Owner's domestic needs, as long as (a) the design and location of the solar energy system meet the requirements of all applicable governmental ordinances, (b) the design and location receive the prior written approval of the Design Review Committee, and (c) the Owner complies with reasonable restrictions imposed by the Committee pursuant to Article 5. Condominium Building rooftops and other areas outside the boundaries of the Unit and Exclusive Use Areas are Association Property owned and controlled by the Association. Therefore, nothing in this Section creates an absolute right in any Owner to install any solar energy system on any rooftop location of a Condominium Building, nor shall any Owner have the absolute right to cause the solar energy system to extend across any roof beyond the vertical extensions of the lateral boundaries of the Owner's Unit. The Committee shall have the absolute right to specify equipment, designs and installation locations and techniques for compatibility with the design and load capacity of a particular Condominium Building's roof, and total roof area occupied by a proposed system to protect the rights of the Neighborhood Association and the rights of other Owners in the same Condominium Building.

2.24.1. **Installation.** Owners who elect to install a System will be subject to the Declaration, the Maintenance Manual, all applicable City and County ordinances and zoning regulations, the Uniform Building Code and associated law and regulations. Owners must obtain written approval from the Design Review Committee prior to installing a System. In addition,

Owners are advised that Condominium ownership does not include ownership or control of any portion of the roof or other areas of the Condominium Building containing the Residence, all of which areas are owned and maintained by the Association. Therefore, the Association, through its Design Review Committee, has the right under California Civil Code Sections 714 and 714.1, as the same may be amended from time to time, may, as a condition of issuing any such approval of any proposed installation affecting the roof or any other portion of the Condominium Building and any other Association Property:

(a) Specify equipment, designs, locations, and construction techniques that are compatible with the design and load capacity of the roof and in the opinion of the Committee and its consultants, will not require revision to the original design of the roof or Condominium Building and will not increase the Association's maintenance, insurance or reserve costs;

(b) Require designs that respect the equitable allocation of roof space for all Owners sharing the same roof (as determined by a solar site survey prepared by a licensed contractor knowledgeable in the installation of solar energy systems);

(c) Require the applying Owner to provide written notice of the application for approval along with a copy of the solar site survey to each Owner in the Condominium Building;

(d) Require the Owner and its successors (and the solar equipment lessor, if any) to indemnify the Association, and every Owner in the same Condominium Building, for damage to the Common Property, Exclusive Use Areas, Units, and their respective contents for damage and loss caused by the installation, maintenance, repair, replacement, and removal of the Owner's solar energy system;

(e) Require the Owner and its successors (and the solar equipment lessor, if any) to bear the entire cost of installation, maintenance, repair, replacement, and removal of the Owner's solar energy system (including repair of all damage to the roof and other Condominium Building components) using contractors pre-approved in writing by the Board of the Association;

(f) Maintain in effect at all times policies of such insurance as the Committee and its consultants deem reasonable to protect the Association and its members;

(g) Record in Official Records an instrument in form approved by the Association's legal counsel by which the obligations imposed by the Committee under this Section and such others as the Committee deems necessary are established as covenants running with the land, enforceable by the Association;

(h) Disclose to resale purchasers of the Owner's Unit the ongoing obligations imposed by the Committee in connection with the installation; and

(i) Such other conditions as may be deemed reasonable and appropriate by the Board in its business judgment.

The foregoing list is not exhaustive, but is provided as guidance for the Association. The Board may, in its discretion, impose other conditions it deems appropriate in the event an Owner has proposed installation of leased equipment by a solar provider.

2.24.2. Impact of Neighboring Properties. California law, including the Solar Shade Control Act, may in some instances restrict an Owner's free and unfettered enjoyment of a Condominium if it conflicts with the solar heating needs of an adjoining Condominium, including the location and height of Owner-installed or -placed trees, landscaping or other Improvements on the Owner's property. However, nothing in the law or the Governing Documents guarantees any Owner the absolute right to operate a System entirely free of interfering shade from pre-existing vegetation and structures on neighboring Condominiums or Common Property, and Declarant makes no such warranty that any System will remain unaffected by shade caused by pre-existing vegetation or other Improvements, or the activities of neighboring Owners or the Association, including the growth of landscaping and the height of Improvements in the Exclusive Use Areas, Common Property or public property.

2.25. RIGHTS OF DISABLED. Subject to Article 5, each Owner may modify such Owner's Unit and the route over the Association Property leading to the front door of the Owner's Unit, at the Owner's sole expense to facilitate access to the Unit by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons, in accordance with California Civil Code Section 4760 or any other applicable law.

2.26. TEMPORARY BUILDINGS; TEMPORARY DWELLINGS. No tent, shack, shed, trailer, mobile home, modular building, storage building, shipping or storage container or similar movable building or shelter may be placed on any portion of the Community either temporarily or permanently. No automobile, trailer, mobile home, camper, motor home, recreational vehicle or other vehicle may be used as a dwelling in any portion of the Community, either temporarily or permanently.

2.27. PROHIBITED RESIDENTIAL USES. No garage, carport, trailer, camper, motor home, recreational vehicle or other vehicle may be used as a residence in the Community, either temporarily or permanently.

2.28. COMMON PROPERTY. The Common Property may not be altered without the Board's prior written consent. Pursuant to the Conditions of Approval, open space areas shall not be converted into parking areas.

2.29. MINERAL EXPLORATION AND EXTRACTION. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted on the Community, nor are oil wells, tanks, tunnels or mineral excavations or shafts permitted upon the surface of any Condominium or within five hundred (500) feet of the surface of the Community.

2.30. POST-TENSION CONCRETE SLABS. Concrete slabs for Units and other Improvements constructed in the Community may be reinforced with a grid of steel cable installed in the concrete slab and then tightened to create extremely high tension. This type of

slab is commonly known as a "Post-Tension Slab." Cutting into a Post-Tension Slab for any reason (for example, to install a floor safe, to repair or remodel plumbing, etc.) is very hazardous and may result in serious damage to the Unit and other Building, personal injury, or both. Each Owner shall determine if the floor of their Unit has been constructed with a Post-Tension Slab and, if so agrees: (a) Owner shall not cut into or otherwise tamper with the Post-Tension Slab; (b) Owner will not permit or allow any other Person to cut into or tamper with the Post-Tension Slab so long as Owner owns any interest in the Unit; (c) Owner shall disclose the existence of the Post-Tension Slab to any Person who rents, leases or purchases the Unit from Owner; and (d) Owner shall indemnify and hold Declarant and Declarant's agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees and costs of court) arising from any breach of this covenant by Owner.

ARTICLE 3 DISCLOSURES

This Article discloses information obtained from third-party sources such as consultants, government and public records. No Person should rely on the ongoing accuracy or completeness of the information discussed in this Article because many of the matters discussed below are outside the control of Declarant and the Association. Accordingly, Declarant does not make any guarantee as to the accuracy or completeness of the matters disclosed below. Furthermore, Declarant is under no obligation to update or revise any matter disclosed in this Article. This Article is intended to provide Owners with information known or provided to Declarant as of the date this Declaration was Recorded, to be used as a starting point for further independent investigation.

3.1. NO REPRESENTATIONS OR WARRANTIES. No representations or warranties, express or implied, have been given by Declarant, the Association or their agents, in connection with the Community, its physical condition, zoning, compliance with law, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation of the Community as a condominium project, except as expressly provided in this Declaration, as submitted by Declarant to DRE, and as provided by Declarant to the first Owner of each Condominium or provided in the standard warranty required by FHA/VA.

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

3.2.1. Landscape and Lighting Districts. The Community is subject to the following Landscape and Lighting Districts: (a) City of Santee Roadway Lighting District, which was formed to provide funding for construction, operation, maintenance and servicing of all street lighting within the district, and (b) City of Santee Town Center Landscape Maintenance District – Zone H, which was formed for primary improvements including, but not limited to, landscaping along the east side of Cuyamaca Street, landscaping along the north side of Town Center Parkway, landscaping along the north side of Transit Way, landscaping along the west and north sides of Riverview Parkway, and landscaping along the north side of Mission Gorge Road, landscaping along the east and south sides of Riverview Parkway, landscaping along the north side of Riverview Parkway, landscaping along the west side of Magnolia Avenue, and

pedestrian easement. Each district has the power to levy assessments against each Condominium in the district's boundaries. District charges will appear on each Owner's property tax bill. Such districts have rights to accelerated foreclosure if assessments are delinquent for more than a specified amount of time. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.2. County of San Diego County Service Area 69 Emergency Ambulance Services. The Community is located within the County of San Diego County Service Area 69 Emergency Ambulance Services, which was formed to provide funding for ambulance and emergency medical services in Santee, Lakeside, a portion of the San Miguel Consolidated Fire Protection District and other areas as specified by the district. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.3. City of Santee Fire District. The Community is located within the City of Santee Fire District, which was formed to provide funding for emergency medical and fire suppression services, equipment and facilities within the City of Santee. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.4. County of San Diego Vector Control Program – Mosquito, Vector and Disease Control Assessment. The Community is located within the County of San Diego Vector Control Program – Mosquito, Vector and Disease Control Assessment, which was formed for the surveillance, prevention, abatement and control of vectors. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.5. San Diego County Water Authority Water Availability. The Community is located within the San Diego County Water Authority Water Availability, which was formed to pay for water facilities and services. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.6. Metropolitan Water District of Southern California. The Community is located within the Metropolitan Water District of Southern California, which was formed to pay for water standby charges for access to water supply and services. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.2.7. California Statewide Communities Development Authority Statewide Community Infrastructure Program Assessment District No. 19-02 (Riverview). The Community is located within the California Statewide Communities Development Authority Statewide Community Infrastructure Program Assessment District No. 19-02 (Riverview), which was formed to provide funding for City of Santee Development Impact Fees including drainage fee, traffic signal fee, traffic mitigation fee, park fee, and the Regional Transportation Congestion Improvement Program Fee. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

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

3.3. **SOIL CONDITIONS.** For in-depth information regarding the geotechnical aspects of the Community, Owners should review the soils report(s) available for viewing at the City (collectively, "**Soils Report**"). The following is a basic summary of certain information from the Soils Report, but the following summary is not exhaustive, and in the event of a conflict with the Soils Report, the Soils Report will control. Owners and the Association acknowledge and agree that Declarant is making no representation or warranty as to the scope or accuracy of the information set forth in the Soils Report. The Association should consider the following information and recommendations before making or modifying any Improvements.

3.3.1. **Expansive Soil.** According to the Soils Report, soils in the Community were found to have very low to low expansion potential. Expansive soil will expand when it becomes wet and contract when it dries out. This expansion and contraction may cause movement, lifting, cracking and distress in slabs, patios, sidewalks and other flatwork improvements. By its very nature, concrete will crack. Movement of Improvements constructed on expansive soil is normal and will occur. The Association should perform soils testing, advise contractors, engineers and/or architects of the presence of expansive soils, use special construction techniques and take precautions when constructing new Improvements to mitigate the effect of expansive soils.

3.3.2. **Fill Soil.** All or portions of the Community are constructed on fill soil in accordance with the recommendations and inspection of licensed civil and soils engineers. Fill soils present special concerns. After placement of the fill, buildings and other Improvements constructed on fill soil will demonstrate some post-placement settlement, which may not be uniform (e.g., some areas in the fill will settle at different rates). A soils report certifying the compaction of fill soil is available for review at the City.

3.4. **ELECTRIC POWER LINES, WIRELESS COMMUNICATIONS FACILITIES, AND HUMAN HEALTH.** Underground and overhead electric transmission and distribution lines and transformers ("**Power Lines**") are located within or in the vicinity of all residential communities, including this Community. The Power Lines within and in the vicinity of the Community produce electric and magnetic fields ("**EMF**"). Antennas and other equipment for wireless telecommunications (for example, cellular phones) may also be located in or in the vicinity of the Community. Like all wireless communications facilities, these facilities produce radio-frequency fields ("**RF**"). Numerous studies concerning the effects of EMF and/or RF on human health have been undertaken over the past several years and some are ongoing. There are studies that have reported a possible relationship between EMF exposure and some health conditions, such as childhood leukemia, miscarriages, and certain neurological disorders, while other studies found no such relationship. Some studies have reported associations between RF exposure and brain cancer, while other studies found no such relationship. Studies are ongoing. Additional information about EMF and RF is available from the following agencies:

3.4.1. the World Health Organization's International EMF Project website at www.who.int/peh-emf/project/en/;

3.4.2. the U.S. National Institute of Environmental Health Sciences website at <http://www.niehs.nih.gov/health/topics/agents/emf/>;

3.4.3. the CDC website at <https://www.cdc.gov/niosh/topics/emf/>;

3.4.4. The California Public Utilities Commission EMF page at <http://www.cpuc.ca.gov/Environment/emf/emfopen.htm>; and

3.4.5. San Diego Gas & Electric website at <https://www.sdge.com/emf/>.

This list is not meant to be all-inclusive.

3.5. **URBAN ENVIRONMENT.** Living in an attached Condominium Building within a densely populated Community entails living in very close proximity to other persons and business, with attendant limitations on solitude. Owners will hear noise from adjacent Units within the Community, including noise from showers, bathtubs, sinks, toilets or other sources of running water. Also, Owners may hear noise from items such as appliances, vacuum cleaners, and entertainment systems, or from people running, walking or exercising. Finally, Owners can expect to hear noise from adjacent residential and commercial areas. Owners may also notice light entering the Units from street lights and area lighting fixtures located in close proximity to the windows and doors of the Units.

3.6. **UNDEVELOPED LAND; WILDLIFE IN AREA.** The Community is located near areas of undeveloped land. As such, the Community may be affected by wildlife, noises, odors, reptiles or insect life typically found in rural areas. Snakes, rodents, mountain lions and coyotes are some of the wildlife typically encountered in rural areas. Owners should expect to encounter insects of all types including flies, ticks, Africanized (killer) bees, mosquitoes, spiders, black and red fire ants, crickets and aphids. Declarant and the Association are not responsible for wildlife control or eradication.

3.7. **SURROUNDING USES.** The Community is located in an area that is experiencing rapid growth. This disclosure is intended to provide Owners with information on surrounding uses as of the date of Recordation. Uses and Improvements in the immediate vicinity of the Community include the items listed below:

North of the Community: San Diego River; Undeveloped/Vacant Land; Town Center Community Park; Sportsplex USA Santee.

South of the Community: San Diego Christian College; Santee Town Center (Commercial/Retail Center); Trolley Station and Trolley Line; Proposed Theater/Brewery/Restaurant; City of Santee Fire Station 4; Town Center Parkway.

East of the Community: Riverview Parkway; Undeveloped/Vacant Land; Las Colinas Detention and Reentry Facility; Helix Electric Inc; Walker Preserve Trail.

West of the Community: Existing Apartment Community.

Existing and proposed uses in surrounding areas may change without notice. Neither Declarant nor the Association have any control over uses outside the Community. Owners are advised to contact applicable local governmental agencies for updated information concerning the development plan for the surrounding community.

3.8. **AIRPORT INFLUENCE AREA NOTICE.** The following notice is included in this Declaration in accordance with California Civil Code Section 4255:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

An "airport influence area" is defined in California Civil Code Section 4255 as an area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission. The Natural Hazard Disclosure Statement (defined below) indicates that the Community is in an airport influence area of Gillespie Field, Gillespie Field-MCAS Miramar.

3.9. **AIRPORT PROXIMITY DISCLOSURE.** According to online mapping services, the following airports lie within the distances stated below (distances measured from the closest point of the airfield along a straight line to the northwest corner of Riverview Parkway):

Gillespie Field	1 Mile
Montgomery Gibbs Executive Airport	9.3 Miles
San Diego International Airport	13.8 Miles

Residents of the Community may notice noise and vibration from overflying aircraft departing from or approaching these airports.

3.10. **PROPERTY LINES.** The boundaries of each Condominium in the Community and the Association Property are delineated on subdivision (tract) maps, lot line adjustments, parcel maps or Condominium Plans that are public records and are available at the County Recorder's office.

3.11. **SAN DIEGO RIVER; WATER HAZARD.** The San Diego River ("**River**") is located to the north of the Community, running roughly parallel to the northern boundary of the Community. Fencing will be installed to separate the River from the Public Trail (described below). The River is an "Open Space Area" and Owners are prohibited from entering upon the River or otherwise disturbing such area. Declarant makes no representations regarding the future uses, water level or existence of the River, which could become dry or flood in the future. During and after periods of heavy rain, fast moving water may be present in the River which may be a danger to animals and children playing on the Public Trail and in the vicinity of the River. Animals and children must be closely watched when in the vicinity of the River to prevent accidental drowning and other such injuries. Owners acknowledge that Declarant and the Association are not responsible for the safety of Owner, Owner's family, guests, invitees, tenants, agents and employees. The River may contribute to the propagation of mosquitoes, other pests and odors in the Community. It is Owner's sole responsibility to control or otherwise abate the impact of mosquitoes and mosquito bites. Declarant does not represent or guarantee the safety of any person from mosquito bites. The River is maintained by others. The River may become dirty or otherwise unsightly. Neither Declarant nor the Association is responsible for maintenance of the River.

3.12. **PUBLIC TRAIL ALONG SAN DIEGO RIVER.** The Public Trail is a public pedestrian and cycling pathway that is located along the northern boundary of the Community and runs roughly parallel to the River. The Public Trail is located on Association Property and will be owned and maintained by the Association, except for certain improvements which may be maintained by the City or other governmental agency, if any. The Association will also be responsible for maintenance of signage located on the Public Trail that prohibits access to and disturbance of the River area. The Public Trail is a segment of the San Diego River Trail that connects the Community to other existing trails and roadways. The Public Trail will be subject to a public easement which allows use by non-residents of the Community. A trail staging and interpretive area ("**Staging Area**") is planned to be located on a City or County-owned lot adjacent to the recreational facilities to the northeast of the Community. The public may congregate in the Staging Area during use of the trail system. Users of the Public Trail may produce noise, dust, and unpleasant odors, leave trash, bring dogs on the Public Trail, loiter in the area, and create other disturbances which may be inconvenient and disturbing to Owners. Owners of Condominiums located in close proximity to the Public Trail (and Staging Area) acknowledge that there is a limitation on privacy where windows are visible from the Public Trail and that noise often accompanies the use of the Public Trail by others. Portions of the Public Trail are planned to include pedestrian lighting and may cast glare on portions of homes. Owners are advised to use caution on the Public Trail and, in particular, in any non-lighted portions of the Public Trail. In addition, during or after periods of heavy rain, the Public Trail may become covered with water and become dangerous for anyone on the pathway. All persons are advised not to use the Public Trail during a rainstorm or flash flooding event.

3.13. **PEDESTRIAN EASEMENT ALONG RIVERVIEW PARKWAY.** As shown on the Map, a "Pedestrian Access, Landscape and Maintenance Easement" (the "**Pedestrian Easement**") has been dedicated to the City over a portion of the Community running parallel to Riverview Parkway. The Pedestrian Easement is for public access for pedestrians, among other purposes. The Pedestrian Easement will be improved with a walkway and landscaping Improvements and is located on property that will be designated as Association Property to be

owned and maintained by the Association. The public will have the right of access over the Pedestrian Easement. Owners of Condominiums located in close proximity to the Pedestrian Easement acknowledge that there will be a limitation on privacy where windows are visible from the Pedestrian Easement and that residents may be subject to increased noise, as well as other impacts and disturbances, related to the public's use of the Pedestrian Easement.

3.14. EASEMENT AGREEMENTS WITH ADJOINING PROPERTIES. The Community is subject to various easement agreements with adjoining properties, as may be shown on the Map and/or set forth in separate recorded instruments. The following is not intended as an exhaustive description of all easement agreements which may affect the Community or the terms of such agreements.

3.14.1. Reciprocal Access Easement. The Community is subject to that certain Reciprocal Access Easement, Recorded on September 6, 2019, as Instrument No. 2019-0386995 in the Official Records (as may be amended, restated and/or re-Recorded from time to time, collectively, the ***"Reciprocal Access Easement"***). Among other purposes, the Reciprocal Access Easement was recorded to satisfy the Conditions of Approval for the Community that require the Community to provide reciprocal vehicular and pedestrian access with the properties to the west and south of the Community. Under the Reciprocal Access Easement, Declarant and other ***"Adjoining Property Owners"*** (as more particularly defined in the Reciprocal Access Easement) have granted to each other perpetual, nonexclusive easements for vehicular and pedestrian ingress, egress, and access (but not parking) over and across portions of the ***"Adjoining Properties"*** (as defined in the Reciprocal Access Easement) designated as the ***"Easement Area."*** The Easement Area is for use by the Adjoining Property Owners and their ***"Permittees"*** (as defined in the Reciprocal Access Easement) for access to and from Town Center Parkway. This means that others from outside the Community will have the right to access and travel over portions of the Community, as more particularly described in the Reciprocal Access Easement. The Easement Area is described and depicted in the Reciprocal Access Easement. A portion of the overall Easement Area is located in the southwestern portion of the Community, which portion will ultimately be designated as Association Property and owned and maintained by the Association. The Association, as successor owner to Declarant, will be responsible for assuming the rights and obligations of "Owner C" under the Reciprocal Access Easement, including (but not limited to) the insurance obligations set forth in Section 6 of the Reciprocal Access Easement. In the event of any inconsistency between this Declaration and the Reciprocal Access Easement, the Reciprocal Access Easement shall control. Residents living in close proximity to the Easement Area should anticipate that they may experience increased levels of vehicular and pedestrian traffic (and associated impacts such as noise and light glare at night) resulting from the Permittees' use of the Easement Area.

3.14.2. Easement Agreement (Drainage Channel Outlet - West). The Community is subject to that certain Easement Agreement (Drainage Channel Outlet), Recorded on September 6, 2019, as Instrument No. 2019-0386996 in the Official Records (as may be amended, restated and/or re-recorded, collectively, the ***"Easement Agreement (Drainage Channel Outlet - West)"***). Under the Easement Agreement (Drainage Channel Outlet - West), the neighboring apartment community to the west of the Community (***"West Property"***) is required to permit the connection between the drainage channel in the Community to the outlet structure located on the West Property (the ***"West Outlet Structure"***) and to accept storm water

drainage from the drainage channel. The Association shall be required to assume the obligations of "Grantee" under the Easement Agreement (Drainage Channel Outlet - West) if and when assigned by Declarant, which includes (without limitation) the obligation to maintain a portion of the West Outlet Structure and to maintain certain insurance coverage, as more particularly described in the Easement Agreement (Drainage Channel Outlet - West). The portion of the West Outlet Structure to be maintained by the Association is described as the "Grantee-Maintained Segment" in the Easement Agreement (Drainage Channel Outlet - West), which is designated as an Association Maintenance Area under this Declaration. If and when directed by Declarant, the Association shall be required to execute a written agreement by which Declarant assigns its interests in the Easement Agreement (Drainage Channel Outlet - West) and the Association assumes the obligations of "Grantee" pursuant to the Easement Agreement (Drainage Channel Outlet - West). In the event of any inconsistency between this Declaration and the Easement Agreement (Drainage Channel Outlet - West), the Easement Agreement (Drainage Channel Outlet - West) shall control.

3.14.3. **Easement Agreement (Drainage Channel Outlet - South).** The Community is subject to that certain Easement Agreement, Recorded on September 6, 2019, as Instrument No. 2019-0386997 in the Official Records (as may be amended, restated and/or re-recorded, collectively, the ***"Easement Agreement (Drainage Channel Outlet - South)"***). Under the Easement Agreement (Drainage Channel Outlet - South), a permanent, non-exclusive easement is granted over the "Drainage Easement Area" located on the neighboring real property to the south of the Community (***"South Property"***): (a) for the connection of the "Drainage Channel" constructed (or to be constructed) in the Community to the "Outlet Structure" located along the boundary of the Community and the South Property (the ***"South Outlet Structure"***), (b) for the Drainage Easement Area to accept storm water drainage from the Drainage Channel into, through and upon the South Outlet Structure and permit the storm water drainage from the Drainage Channel to flow through the South Outlet Structure, and (c) for the "Grantee" under the Easement Agreement (Drainage Channel Outlet - South) to exercise certain maintenance and repair rights, all as described more particularly in the Easement Agreement (Drainage Channel Outlet - South). Under the Easement Agreement (Drainage Channel Outlet - South), the "Grantee" has the right, but not the obligation, to enter onto the South Outlet Structure and Drainage Easement Area from time to time to maintain and repair the South Outlet Structure and Drainage Easement Area. If and when directed by Declarant, the Association shall be required to execute a written agreement by which Declarant assigns, and the Association assumes, the interests and obligations of "Grantee" under the Easement Agreement (Drainage Channel Outlet - South). If the Association performs any maintenance of the South Outlet Structure and Drainage Easement Area pursuant to the Easement Agreement (Drainage Channel Outlet - South), such Improvements shall be designated as an Association Maintenance Area under this Declaration. In the event of any inconsistency between this Declaration and the Easement Agreement (Drainage Channel Outlet - South), the Easement Agreement (Drainage Channel Outlet - South) shall control.

3.15. **SEWER LIFT STATION.** A sewer lift station is located in the southeastern portion of the Community adjacent to Units 107 and 108 of the Community. The lift station is part of the sewer improvements for the Community and will be owned and maintained by the Association. Owners of Condominiums located near the lift station may experience increased

noise, unpleasant odors and vibrations from the operation of the lift station and associated maintenance activities.

3.16. **RECREATIONAL FACILITIES.** The Community is anticipated to include certain recreational facilities in the northeastern and southwestern areas in the Community, which may include a pool and spa, restroom building, play structure, open turf play area, and barbecue area (collectively, the "*Recreational Facilities*"). The Recreational Facilities are subject to change without notice and Declarant makes no guarantees that the Recreational Facilities described herein will be constructed. Residents living in close proximity to the Recreational Facilities may experience increased noise, unpleasant odors, light glare at night, vibrations, errant objects, dust and other impacts and disturbances associated with the use and maintenance of the Recreational Facilities.

3.17. **TROLLEY STATION AND TROLLEY LINE.** The Community is located in close proximity to the Santee Town Center Transit Station and MTS Trolley light rail line to the south. The trolley lines and operations are subject to change at any time and Declarant makes no representations or warranties regarding the current and future operations and use of the trolley lines. Owner acknowledges that Declarant and the Association have no control over the trolley lines or station, including types of trains employed, the frequency of trips, the coupling, uncoupling and/or storage of rail cars, and maintenance activities related to the trolley lines and station. Owners and other residents of the Community may experience and/or be exposed to significant noise, odors, air pollution, fumes, bright lights, vibrations, traffic congestion, dirt, debris, panhandling, trespassing, criminal activity, and other adverse impacts and hazards relating to the operation and maintenance of the trolley lines and station. Individuals have varying sensitivities to noise and any sound attenuation measures installed by Declarant may not reduce noise to a level that will satisfy every expectation. The trolley lines and station could be an attractive nuisance to children and animals who may wish to play in the vicinity of the trolley lines. Owners acknowledge and understand that Owners are responsible for keeping children and animals away from the trolley lines and the danger present around the trolley lines.

3.18. **SANTEE TOWN CENTER.** Santee Town Center is a large outdoor shopping area located to the south of the Community that contains a variety of retail, restaurant and other businesses. These establishments may make and receive deliveries at all hours of the day and night. Owners may be impacted by a variety of impacts and disturbances associated with these retail and businesses uses, including without limitation, traffic congestion, noise, and light glare at night.

3.19. **LAS COLINAS DETENTION AND REENTRY FACILITY.** The Las Colinas Detention and Reentry Facility ("*Facility*") is located to the east of the Community. According to the San Diego County Sheriff's Department website, the 45-acre Facility serves as the primary point of intake for women prisoners in San Diego County and has a rated capacity of approximately 1,270 individuals. Owners should contact the San Diego County Sheriff's Department for additional information.

3.20. **SPORTSPLEX USA.** Sportsplex USA ("*Sportsplex*") is located approximately 1,950 feet to the north of the Community. Sportsplex is a large sports and recreational complex containing 3 softball fields, 2 soccer arenas, and batting cages, among other facilities. Sportsplex

holds year-round activities and events on weekdays and weekends. The facilities include nighttime lighting and activities are held during evening hours. Residents may experience impacts and disturbances from Sportsplex, including (but not limited to) amplified music and announcements and light glare at night.

3.21. CRIME AND COMMUNITY CONDITIONS; HOMELESSNESS. As with many parts urban environments, surrounding areas may be occupied by homeless people, vagrants and criminals. Homeless people may loiter and sleep in public parks, the Public Trail and other public and private areas. As such, you may encounter homeless people and vagrants. The presence of homeless people and vagrants may increase over time. There may be incidents of crime against persons and property. You should contact the City and police department for information about City safety and crime. Declarant makes no representation or warranty regarding the safety and security of the Community. The Declarant and the Association shall not be liable for any crime or theft against you, your family, guests, or invitees, or your personal property.

3.22. UTILITY IMPROVEMENTS. There may be above-ground and subterranean utility Improvements such as transformers, lift stations, water or sewer facilities, telecommunications vaults and other visible Improvements necessary for the delivery of utilities or other services either on or adjacent to each Condominium. The placement of such Improvements is dictated by the needs of the applicable utility or service provider, and the presence of such Improvements in the Community is in accordance with easements created prior to or during the development of the Community. Each Condominium and portions of the Association Property are subject to one or more such easements for placement of utility Improvements. No Owner may modify, remove or otherwise interfere with utility Improvements on any Condominium or other portion of the Community.

3.23. RECLAIMED WATER. In its efforts to conserve water, the local water district ("*Water District*") requires the use of reclaimed water to irrigate public landscaping adjoining the Community. Reclaimed water is partially treated waste water. It is not treated to be suitable for consumption by humans or domestic animals.

Declarant has installed in parts of the public landscaping along Riverview Parkway irrigation equipment that is designated for reclaimed water service. Such equipment is purple in color for ready identification. The Water District may extend reclaimed water service to such landscaping. There is no fixed date for the commencement of reclaimed water service, but all Persons in the Community should always assume that water originating from purple irrigation equipment is reclaimed, and therefore never suitable for human or domestic animal consumption. There is no way to reliably tell the difference between potable water and reclaimed water without a chemical test. The water delivered to the Residence will at all times be domestic potable water.

As with any water overspray, the repeated spray of reclaimed water used in irrigation may stain or discolor personal property, fences, walls and other Improvements. Neither Declarant, nor the Association nor their officers, directors, employees or agents are liable for any property damage or personal injury caused by reclaimed water. Further information concerning reclaimed water is available at the Water District's headquarters.

3.24. **MOLD.** Molds are simple, microscopic organisms, present virtually everywhere, indoors and outdoors. Mold can be any color, but is usually green, gray, brown or black. Mold requires a food source (such as paper, wood, leaves or dirt), a source of moisture and a suitable temperature (generally 40-100 degrees Fahrenheit) to grow.

Individuals are exposed to molds on a daily basis, and in most instances there are no harmful effects. However, the buildup of molds in the indoor environment may contribute to serious health problems for some individuals. Due to a variety of factors, including the fact that sensitivities to various types of molds and other potential contaminants vary from person to person, there are currently no state or federal standards concerning acceptable levels of exposure to mold. Sources of indoor moisture that may lead to mold problems include, but are not limited to flooding, leaks, seepage, sprinkler spray hitting the Condominium Building, overflow from sinks or sewers, damp basement or crawl space, steam from shower or cooking, humidifiers, wet clothes drying indoors, watering house plants, and clothes dryers exhausting indoors.

Each Owner should take precautions to prevent the growth of mold in the Unit from these and other sources. Preventative measures include, but are not limited to the following: (1) regularly cleaning the Unit; (2) regularly checking for accumulated moisture in corners and unventilated areas; (3) running fans, dehumidifiers and air conditioners to reduce indoor humidity; (4) stopping the source of any leak or flooding; (5) removing excess water with mops or a wet vacuum; (6) moving wet items to a dry, well-ventilated area; (7) regularly cleaning and disinfecting indoor and outdoor surfaces that may contain mold; (8) having major appliances, such as furnaces, heat pumps, central air conditioners, ventilation systems and furnace-attached humidifiers inspected, cleaned and serviced regularly by a qualified professional; and (9) cleaning the refrigerator, air conditioner and dehumidifier drip pans and filters regularly and ensuring that refrigerator and freezer doors seal properly.

It is the Owner's responsibility to monitor the Residence on a continual basis for excessive moisture, water and mold accumulation. For additional information regarding mold, please refer to the following websites: California Department of Public Health - <http://www.cdph.ca.gov>; Centers for Disease Control and Prevention - <http://www.cdc.gov/nceh>; U.S. Environmental Protection Agency - <http://www.epa.gov>; Illinois Department of Public Health - <http://www.idph.state.il.us>; and Washington State Department of Health - <http://www.doh.wa.gov>.

3.25. **NATURAL HAZARD ZONE DISCLOSURES.** According to the Natural Hazard Disclosure Statement dated as of October 30, 2019, and prepared by First American Natural Hazard Disclosures (the "*Natural Hazard Disclosure Statement*"), all or a portion of the Community lies within the mapped boundaries of the following natural hazard zones:

3.25.1. **Special Flood Hazard Area.** The Federal Emergency Management Agency ("*FEMA*") is required by federal law to compile "Flood Insurance Rate Maps" identifying areas of potential flooding, known as Special Flood Hazard Areas. If a property is located in a Special Flood Hazard Area ("*SFHA*"), the cost and availability of flood insurance may be affected. Property located in a SFHA is subject to a one percent (1%) or greater chance of complete or partial flooding in any given year. FEMA defines this type of flood as the "base flood" which is more commonly known as a "100-year flood." A 100-year flood has a 26%

chance of occurring during any thirty (30) year period. According to the Natural Hazard Disclosure Statement, a portion of the Community is located in a Special Flood Hazard Area, designated as Zone AE on maps issued by FEMA, which designation indicates a flood plain. In addition, the Natural Hazard Disclosure Statement also indicates that a portion of the Community is located in FEMA Zone X, in an area of minimal flood risk outside the "500" year flood-risk level. Flood maps are updated periodically, and Declarant makes no representations, guarantees or warranties concerning any future flood zone determinations. Owners are advised that real property may sustain flood damage even if FEMA states that the property lies outside a designated Special Flood Hazard Area.

3.25.2. Earthquakes. The Natural Hazard Disclosure Statement does not identify any Earthquake Fault Zones affecting the Community. However, California is subject to a wide range of earthquake activity. According to the Soils Report (defined above), the Rose Canyon fault zone is located in close proximity to the Community (approximately 13 miles to the west) and movement associated with the fault (and other nearby active faults) could cause significant ground motion at the Community. California has many known earthquake faults as well as yet-undiscovered faults. As earthquake faults are discovered and characterized, the state creates maps defining property affected by the fault as an Earthquake Fault Zone, as defined in California Public Resources Code Section 2621.9. Owners must evaluate the potential for future seismic activity that might seriously damage an Owner's Residence. A major earthquake, which some have predicted will occur in our lifetimes, could cause very serious damage to Residences, even those located even many miles from the epicenter of the earthquake. A more moderate earthquake occurring on a more minor fault, or on an undiscovered fault, could also cause substantial damage.

Declarant makes no representations or warranties as to the degree of earthquake risk within the Community. All Owners should read "The Homeowner's Guide to Earthquake Safety," which is published by the California Seismic Safety Commission and is available from their offices or by free download from their website at <https://ssc.ca.gov/> and consult with the County, other public agencies, and appropriate experts to evaluate the potential risk.

3.25.3. Seismic Hazard Zone. Many portions of California are subject to risks associated with seismic activity. Areas that meet the definition of "Seismic Hazard Zone" in the Seismic Hazards Mapping Act (California Public Resources Code Section 2690, *et seq.*) are shown on maps that are prepared and released by the California Department of Conservation, Division of Mines and Geology. Such zones may pose an increased risk of damage to property from liquefaction and/or from earthquake-induced landsliding. According to the Natural Hazard Disclosure Statement, the State of California has not yet produced any seismic hazard zone maps for the Community. When such maps are released, they will be available for inspection at the offices of the County. Declarant makes no representations or warranties as to whether the Community is in a Seismic Hazard Zone, or whether seismic activity poses any elevated degree of risk to the Community. Owners are advised to consult with the City, County, other public agencies, and appropriate experts to evaluate the potential risk. For more information concerning seismic activity and risks, read "The Homeowner's Guide to Earthquake Safety."

3.25.4. Area of Potential Flooding/ Dam Inundation Zone. According to the Natural Hazard Disclosure Statement, the Community is located within an Area of Potential

Flooding (or Dam Inundation Zone) as shown on an official map reviewed, approved and maintained by the State of California Office of Emergency Services in accordance with Section 8589.5 of the California Government Code. Such maps are prepared by local governmental agencies, utilities or other owners of dams to disclose areas affected by potential inundation and flooding that could result from the sudden, partial or total failure of a dam. Dams may fail in a significant earthquake, and flooding of areas in the pathway of the released water could cause damage to property, personal injury and death. Maps are updated periodically, and Declarant makes no representations, guarantees or warranties with respect to any future dam inundation zone determinations affecting the Community. Please contact the City or the state Office of Emergency Services for further information.

3.25.5. City and County-Designated Zone Determinations. California law allows cities and counties to establish policies and criteria stricter than those set by the State respecting, but not limited to, the permitting and development of properties found to be in or affected by the certain natural hazards. This information may be used by the local jurisdiction relative to making decisions regarding new development or additional construction. The agencies and jurisdictions which develop the official maps do not necessarily define or delineate hazards in the same way. A site can be in a hazard zone from one source and not in a hazard zone from another source. Properties that are in a mapped geologic hazard zone may require a geologic study prior to any new or additional construction. According to the Natural Hazard Disclosure Statement, all or portions of the Community lie within the following City and County-designated zones:

- (a) **Fire.** A County-mapped area of high fire threat.
- (b) **Geologic Hazard.** City-mapped Zone C, a moderately unstable geologic hazard zone.

3.26. RIGHT TO FARM DISCLOSURE. According to the Natural Hazard Disclosure Statement referenced above, the Community is located within one mile of a farm or ranch land. California Civil Code Section 1103.4 requires notice if a property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current county-level GIS "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, and if so, accompanied by the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm

operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

3.27. COMMERCIAL/INDUSTRIAL ZONE DISCLOSURE. California Code of Civil Procedure Section 731a currently provides that, except in an action to abate a public nuisance brought in the name of the people of the State of California, no Person shall be enjoined or restrained by the injunctive process from the reasonable and necessary operation in any industrial or commercial zone or airport of any use expressly permitted therein, nor shall such use be deemed a nuisance without evidence of the employment of unnecessary and injurious methods of operation, provided any city, city and county, or county shall have established zones or districts under authority of law wherein certain manufacturing or commercial or airport uses are expressly permitted. Accordingly, Declarant discloses that according to the Natural Hazard Disclosure Statement described above, the Community is located within one mile of a property that is zoned by the City to allow commercial or industrial use.

3.28. FORMER MILITARY ORDNANCE. According to the Natural Hazard Disclosure Statement referenced above, the Community is located within one mile of a formerly used ordnance site: Marine Parachute School La Mesa.

3.29. RADON. Radon is a colorless, odorless radioactive gas that is produced by the natural decay of uranium, which is found in nearly all soils. Because radon is a gas, it can seep from the ground into the air in a house through openings in the ground, and its presence increases the risk of lung cancer. The U.S. Environmental Protection Agency (the "EPA") and U.S. Geological Survey have produced a map that assigns one to three zone designations based on radon potential to each county. According to the EPA, each zone designation reflects the average short-term radon measurement that can be expected to be measured in a building without the implementation of radon control measures. This map is not meant to be used to determine whether a particular home should be tested for radon, but is used to assist various government agencies and organizations in focusing their radon program resources. Declarant and the Association make no representations, warranties or guarantees as to the degree of radon risk within the Community. Potential buyers and residents are advised to consult with the City or other public agencies and appropriate experts to evaluate the potential risk. Additional information may be found at <https://www.epa.gov/radon/epa-map-radon-zones>.

3.30. ENERGY EFFICIENCY STANDARDS AND DUCT SEALING REQUIREMENTS. According to the Natural Hazard Disclosure Statement, the Community is located in a climate zone where properties are subject to duct sealing and testing requirements set

forth by the California Energy Commission when a central air conditioner or furnace is installed or replaced. Owners should contact the California Energy Commission, or visit the official CEC "2013 Building Energy Efficiency Standards" portal at <http://www.energy.ca.gov/title24/2013standards/index.html>, for more information regarding energy efficiency standards and duct sealing requirements applicable to the Condominiums in the Community.

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

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

3.33. **ADDITIONAL PROVISIONS; FUTURE ENFORCEABILITY.** There may be provisions of various laws, including, without limitation, the Davis-Stirling Common Interest Development Act codified at Sections 4000, *et seq.* of the California Civil Code, California's Fair Employment and Housing Act at Sections 12900, *et seq.* of the California Government Code, and the Federal Fair Housing Act codified at Title 42 United States Code, Section 3601, *et seq.*, among other laws, which may supplement or override the Governing Documents. Declarant makes no representations or warranties regarding the future enforceability of any portion of the Governing Documents.

ARTICLE 4 THE ASSOCIATION

4.1. **GENERAL DUTIES AND POWERS.** The Association has the duties and powers enumerated and described in the Governing Documents, in addition to the general and implied powers of a nonprofit mutual benefit corporation, generally to do all things that a corporation organized under California law may lawfully do which are necessary or proper in operating for the general welfare of the Owners, subject only to the limits on the exercise of such powers listed in the Governing Documents. Unless otherwise indicated in the Articles of Incorporation, Bylaws, this Declaration, or a Supplemental Declaration, the powers of the Association may be exercised by the Board.

4.2. **SPECIFIC DUTIES AND POWERS.** In addition to its general powers and duties, the Association has the following specific powers and duties.

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

4.2.2. **Utilities.** The power and duty to obtain, for the benefit of the Community, all water, gas and electric services necessary for the Common Property. The power and duty to obtain for the benefit of the Community, all commonly metered residential utilities.

4.2.3. **Granting Rights.** The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in the Association Property owned in fee simple by the Association, to the extent any such grant is reasonably required (a) for Improvements to serve the Community, (b) for purposes of conformity with the as-built location of Improvements installed or authorized by Declarant or the Association, (c) in connection with any lawful lot line adjustment, or (d) for other purposes consistent with the intended use of the Community. This power includes the right to create and convey easements for one or more Owners over portions of the Association Property. The Association may de-annex any portion of the Community from the encumbrance of the Declaration in connection with any lawful lot line adjustment.

After the Association acquires fee title to or any easement right over Association Property, the affirmative vote of members owning at least sixty-seven percent (67%) of the Condominiums in the Community shall be required before the Board may grant exclusive use of any portion of that Association Property to any member, except as provided in California Civil Code Sections 4202(a)(4) and 4600. Any measure placed before the members requesting that the Board grant exclusive use of any portion of the Association Property shall specify whether the Association will receive any monetary consideration for the grant and whether the Association or the transferee will be responsible for providing any insurance coverage for exclusive use of the Association Property.

4.2.4. **Employ Personnel.** The power to employ Persons necessary for the effective operation and maintenance of the Common Property, including legal, management and accounting services.

4.2.5. **Insurance.** The power and duty to keep insurance for the Common Property in accordance with this Declaration.

4.2.6. **Sewers and Storm Drains.** The power and duty to maintain any private sewer systems, private storm drains, or private drainage facilities in the Association Property in accordance with the Governing Documents.

4.2.7. **Maintenance Guidelines.** The power and duty to (a) operate, maintain and inspect the Common Property and its various components in conformity with any Maintenance Guidelines and any maintenance manual, and (b) review any maintenance manual for necessary or appropriate revisions no less than annually after the Board has prepared the Budget.

4.2.8. **Rules and Regulations.** The power, but not the duty, to adopt, amend, repeal and create exceptions to, the Rules and Regulations.

(a) **Standards for Enforceability.** To be valid and enforceable, a Rule must satisfy all the following requirements:

- (i) The Rule must be in writing;
- (ii) The Rule is within the authority of the Board conferred by law or by this Declaration, the Articles of Incorporation or the Bylaws;
- (iii) The Rule is not inconsistent with governing law, this Declaration, the Articles of Incorporation or the Bylaws;
- (iv) The Rule is adopted, amended or repealed in good faith and in substantial compliance with the requirements of Article 4 of Title 6 of Part 4 of Division 2 of the California Civil Code;
- (v) The Rule is reasonable; and
- (vi) The Rule complies with the requirements of California Civil Code Section 4350.

(b) ***Areas of Regulation.*** The Rules and Regulations may concern use of the Community and any common amenities in the Community, signs, parking restrictions, minimum standards of property maintenance, the operation in the Community of drones, unmanned aircraft systems (UAS), unmanned aerial vehicles (UAV), model aircraft, and similar vehicles or devices by any other name, now existing or that may be developed in the future, whether operated for hobby use or for business purposes, by Owners, tenants or residents, or by contractors or invitees, and any other matter under the Association's jurisdiction.

(c) ***Limits on Regulation.*** The Rules and Regulations must apply uniformly to all Owners and must comply with this Declaration and all applicable state and local laws. The rights of Owners to display in or on their Units religious, holiday and political signs, symbols and decorations of the kinds normally displayed in residential condominium neighborhoods shall not be abridged. However, the Association may adopt time, place and manner restrictions for such displays if they are visible outside the Unit. No modification to the Rules and Regulations may require an Owner to dispose of personal property that was in compliance with all rules previously in force; however, this exemption shall apply only during the period of such Owner's ownership of the Condominium and it shall not apply to: (1) subsequent Owners who take title to a Condominium after the modification is adopted; or (2) clarifications to the Rules and Regulations.

(d) ***Procedure for Adoption, Amendment and Repeal.*** Rules or procedures concerning (1) the use of Common Property, (2) the use of a Condominium, including any aesthetic standards or Design Guidelines that affect Condominiums, (3) member discipline, including any schedule of monetary penalties for violation of the Governing Documents, (4) any procedure for the imposition of penalties, (5) any standards for delinquent assessment payment plans, (6) any procedures adopted by the Association for resolution of assessment disputes, (7) any procedures for reviewing and approving or disapproving a proposed physical change to a Condominium or to the Common Property, and (8) procedures for elections (each, a "***Covered Rule***") may only be adopted, amended or repealed (each, a "***Rule Change***") in accordance with the following procedure:

(i) The Board must provide written notice ("**Notice**") of a proposed Rule Change to the members at least thirty (30) days before making the Rule Change, except for an Emergency Rule Change (defined below). The Notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change;

(ii) The decision on a proposed Rule Change shall be made at a Board meeting after consideration of comments made by the members of the Association;

(iii) The Board shall deliver Notice of the Rule Change to every member of the Association within fifteen (15) days of adoption. If the change was an Emergency Rule Change, the Notice shall include the text of the Emergency Rule Change, and the date on which the Emergency Rule Change expires;

(iv) If the Board determines that an immediate Rule Change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association, it may make the change on an emergency basis ("**Emergency Rule Change**") and no Notice will be required. An Emergency Rule Change is effective for one hundred-twenty (120) days, unless the Emergency Rule Change provides for a shorter effective period. Any Rule Change that is adopted as an Emergency Rule Change may not be re-adopted under authority of this subpart;

(v) A Notice required by this Section 4.2.8(d) is subject to California Civil Code Section 4360;

(vi) A Rule Change made pursuant to this Section 4.2.8(d) may be reversed as provided in California Civil Code Section 4365.

(e) **Exceptions to Procedure.** The procedure in Section 4.2.8(d) does not apply to:

(i) Rules that do not meet the definition of Covered Rules above;

(ii) decisions of the Board regarding maintenance of Common Property;

(iii) a decision on a specific matter that is not intended to apply generally;

(iv) a decision setting the amount of an Annual Assessment or a Special Assessment;

(v) **VA:** Any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of Improvements, which shall be approved in accordance with Section 13.2.1

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

(vii) issuance of a document that merely repeats existing law or the Governing Documents.

(f) **Use of Facilities.** The Rules and Regulations may (1) specify a maximum number of guests which an Owner, tenant or other Person may admit to the Association Property recreational facilities at one time, (2) establish rules for allowing Owners, tenants or other Persons to use Association Property facilities for private functions, or (3) establish admission fees, deposit requirements and other fees for the use of any facilities on the Association Property.

4.2.9. **Borrowings.** The power, but not the duty, to borrow money for purposes authorized by the Articles of Incorporation, Bylaws, Declaration, any Supplemental Declarations or any Notice of Addition, and to use the Association Property as security for the borrowing.

4.2.10. **Contracts.** The power, but not the duty, to enter into contracts. This includes contracts with Owners or other Persons to provide services or to maintain Improvements in the Community and elsewhere which the Association is not otherwise required to provide or maintain by this Declaration. The Board also has the power, but not the duty, to (a) enter into a contract with a credit reporting service to make regular reports to credit bureaus of both timely and delinquent payment of Annual Assessments by all Owners, and (b) recover from delinquent Owners the delinquent payment reporting fee charged the Association by the credit reporting service as part of the "reasonable fees and costs of collection" of delinquent Assessments under California Civil Code Section 5650. If the Board elects to use a credit reporting service, then the Board shall include in the Association's annual assessment and foreclosure policy statement (as described in the Bylaws and California Civil Code Section 5730) the amount of the reporting fee that it may recover from delinquent Owners.

4.2.11. **Easement Agreements.** The power and duty, if and when directed by Declarant, to assume the interests and obligations of "Grantee" under the Easement Agreement (Drainage Channel Outlet - West) and Easement Agreement (Drainage Channel Outlet - South), respectively, and to execute one or more written agreements in connection with such assumption.

4.2.12. **Telecommunications Contract.** Notwithstanding anything in the Governing Documents to the contrary, the Board shall have the power to enter into, accept an assignment of, or otherwise cause the Association to comply with the terms and provisions of an exclusive telecommunications services contract ("**Telecommunications Contract**") with a telecommunications service provider ("**Service Provider**"), pursuant to which the Service Provider shall serve as the provider of Telecommunications Services to each Condominium in the Community. The Board shall only enter into, accept an assignment of, or otherwise cause the Association to comply with the terms of the Telecommunications Contract if the Board determines that the Telecommunications Contract is in the best interests of the Association. Although not exhaustive, the Board shall consider the following factors in making such a determination in the exercise of its business judgment:

(a) **Initial Term and Extensions.** The initial term of the Telecommunications Contract should not exceed five (5) years, and, if the Telecommunications

Contract provides for automatic extensions, the length of each such extension should also not exceed five (5) years.

(b) **Termination.** The Telecommunications Contract should provide that: (1) at least six (6) months before the end of either the initial or any extended term of the Telecommunications Contract, the entire Membership of the Association may, with the vote or written approval of more than fifty percent (50%) of all Members other than Declarant, prevent any automatic extension that the Telecommunications Contract may provide for (with or without cause), and thereby cause the Telecommunications Contract to expire, and (2) at any time with reasonable notice periods, the Board may terminate the Telecommunications Contract if, in the sole discretion of the Board, the Service Provider fails to provide quality, state-of-the-art Telecommunications Services.

(c) **Fees.** Whether the monthly fee charged to the Association by the Service Provider for the provision of the Telecommunications Services to all of the Condominiums represents a discount from the comparable retail fees charged by the Service Provider in the general geographic area in which the Community is located, and, if so, the amount of such discount.

(d) **Installation of Telecommunications Facilities.** Whether the Service Provider is solely responsible for the installation, and the cost thereof, of all of the Telecommunications Facilities necessary to provide Telecommunications Services to each Condominium.

(e) **Removal of Telecommunications Facilities.** Whether the Service Provider has the right to remove the Telecommunications Facilities upon expiration or termination of the Telecommunications Contract.

4.2.13. **Indemnification.**

(a) **For Association Representatives.** To the fullest extent authorized by law, the Association has the power and duty to indemnify Board members, Association officers, Design Review Committee members, and all other Association committee members for all damages, pay all expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action brought because of performance of an act or omission within what such Person reasonably believed to be the scope of the Person's Association duties ("**Official Act**"). Board members, Association officers, Design Review Committee members, and all other Association committee members are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any person entitled to such indemnification.

(b) **For Other Agents of the Association.** To the fullest extent authorized by law, the Association has the power, but not the duty, to indemnify any other Person acting as an agent of the Association for damages incurred, pay expenses incurred, and

satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act.

(c) **Provided by Contract.** The Association also has the power, but not the duty, to contract with any Person to provide indemnification in addition to any indemnification authorized by law on such terms and subject to such conditions as the Association may impose.

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

4.2.15. **Vehicle and Parking Restrictions.** The power granted in Section 2.14 to identify Authorized Vehicles or Restricted Vehicles and to modify the vehicle and parking restrictions in the Governing Documents.

4.2.16. **License and Use Agreements.** The Association may enter into agreements with Declarant or any homeowners association having jurisdiction over the Annexable Area to share facilities located on the Association Property with Owners in the Annexable Area or to share such facilities as are under the control of the other homeowners association (each, a "**Facility**"). Any such agreement shall be in form and content acceptable to Declarant, the Board of Directors (without the approval of Owners) and Declarant or the board of directors of any adjacent homeowners association and shall include provisions regarding use and sharing of maintenance costs for the Facility.

4.2.17. **Landscaping.** The Board has the power, but not the duty, to grant Owners revocable licenses that allow Owners to replace and/or add landscaping Improvements to any portion of the Association Property, subject to the prior written approval of the Board, any reasonable restrictions or conditions the Board may impose, and the right of the Board to revoke such license, remove the Improvements and charge the Owner for the cost of such removal.

4.2.18. **Prohibited Functions.**

(a) **Property Manager.** The Association shall not hire any employees, furnish offices or other facilities, or use any Association Property for an "on-site" Manager. The Manager shall at all times be a professional manager employed as an independent contractor or agent working at its own place of business.

(b) **Off-site Nuisances.** The Association shall not use any Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of the Community.

(c) **Political Activities.** The Association shall not conduct, sponsor, participate in or expend funds or resources toward any activity, campaign or event, including any social or political campaign, event or activity which does not directly and exclusively pertain to the authorized activities of the Association. Furthermore, the Association shall not participate in federal, state or local activities or activities intended to influence a governmental action affecting areas outside the Community (for example, endorsement or support of legislative or administrative actions by a local governmental authority), nor shall it support or campaign for or

against candidates for elected or appointed office or ballot proposals. There shall be no amendment of this Section so long as Declarant owns any portion of the Community.

4.2.19. **Standing to Resolve Disputes.** The Association shall have standing to institute, defend, settle or intervene in litigation, alternative dispute resolution or administrative proceedings (each, an "**Action**") in its own name as the real party in interest and without joining the Owners, in matters pertaining to (a) damage to the Association Property, (b) damage to portions of the Condominiums which the Association is obligated to maintain or repair, and (c) damage to portions of the Condominiums which arises out of, or is integrally related to, damage to the Association Property or portions of the Condominiums that the Association is obligated to maintain or repair (each, a "**Claim**"). However, the Association shall not have standing to institute, defend, settle or intervene in any Action in any matter pertaining only to an individual Condominium and not included in clauses (b) and (c) above.

The Association may, in its sole discretion, elect to institute, intervene in, continue, settle or dismiss an Action at any time. If the Association institutes or intervenes in an Action on a Claim, the Association's standing shall be exclusive, and the Owners shall thereafter be barred from instituting a new Action or maintaining a pending Action on the same Claim. The Association's election to institute or intervene in an Action on a particular Claim shall not create any affirmative obligation on the part of the Association to maintain, settle or dismiss the Action, except in the Association's sole discretion, and subject to Section 12.4. If the Association elects to settle an Action, the terms of the settlement shall be binding on the Owners, and the Owners shall be barred from instituting or continuing any other Action on the same Claim. If the Association elects to dismiss an Action, the dismissal shall be with prejudice to the institution or continuation by one or more Owners of any Action on the same Claim.

4.3. **STANDARD OF CARE, NON-LIABILITY.**

4.3.1. **Scope of Powers and Standard of Care.**

(a) **General Scope of Powers.** Rights and powers conferred on the Board, the Design Review Committee or other committees or representatives of the Association by the Governing Documents are not duties, obligations or disabilities charged upon those Persons unless the rights and powers are explicitly identified as including duties or obligations in the Governing Documents or law. Unless a duty to act is imposed on the Board, the Design Review Committee or other committees or representatives of the Association by the Governing Documents or law, the Board, the Design Review Committee and the committees have the right to decide to act or not act. Any decision not to act is not a waiver of the right to act in the future.

(b) **Business Affairs.** This Section 4.3.1(b) applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances, and Design Review Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner the Board member believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing Board duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial data prepared or presented by:

(i) One (1) or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(ii) Counsel, independent accountants or other Persons as to matters which the Board member believes to be within such Person's professional or expert competence; or

(iii) A committee of the Board upon which the Board member does not serve, as to matters under its designated authority, which committee the Board member believes to merit confidence, so long as, in any such case, the Board member acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

This Section 4.3.1(b) is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this Section 4.3.1(b).

(c) **Association Governance.** This Section 4.3.1 applies to Board actions and Design Review Committee decisions in connection with interpretation and enforcement of the Governing Documents, architectural and landscaping control, regulation of uses within the Community, rulemaking and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

4.3.2. **Non-liability.**

(a) **General Rule.** No Person is liable to any other Person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct. The Association is not liable for damage to property in the Community unless caused by the negligence of the Association, the Board, the Association's officers, the Manager or the Manager's staff.

(b) **Non-liability of Volunteer Board Members and Officers.** A volunteer Board member or volunteer Association officer shall not be personally liable to any Person who suffers injury, including bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all applicable conditions specified in California Civil Code Section 5800 are met.

(c) **Non-liability of Owners.** Pursuant to California Civil Code Section 5805, no Owner shall be liable for any cause of action in tort which can be brought against the Owner solely because of the Owner's undivided interest in the Condominium Common Area so long as the Association keeps one (1) or more policies of insurance which

include coverage for general liability of the Association in the amount required by California Civil Code Section 5805 and that insurance is in effect for the cause of action being brought.

4.4. MEMBERSHIP.

4.4.1. **Generally.** Every Owner shall automatically acquire a Membership in the Association and retain the Membership until such Owner's Condominium ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Condominium is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Condominium is transferred, and every Membership is appurtenant to and may not be separated from the fee ownership of the Condominium. The rights, duties, privileges and obligations of all Owners are as provided in the Governing Documents.

4.4.2. **Transfer.** The Membership of any Owner may not be transferred, pledged or alienated in any way, except on the transfer or encumbrance of such Owner's Condominium, and then only to the transferee or Mortgagee of the Owner's Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold the Owner's Condominium to a contract purchaser under an agreement to purchase may delegate the Owner's Membership rights to the contract purchaser. The delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all Assessments attributable to the contract seller's Condominium which accrue before title to the Condominium is transferred. If the contract seller fails or refuses to delegate the Membership rights to the contract purchaser before the Close of Escrow, the Association may record the transfer to the contract purchaser in the Association's records. However, no contract purchaser will be entitled to vote at Association meetings during the term of a purchase contract without satisfactory evidence of the delegation of the contract seller's Membership rights to the contract purchaser. The Association may levy a reasonable transfer fee against a new Owner and such Owner's Condominium (which fee shall be paid through escrow or added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the Association's records. Such fee may not exceed the Association's actual cost involved in changing its records.

4.4.3. **Classes of Membership.** The Association classes of voting Membership are as follows:

(a) **Class A.** Class A members are all Owners except Declarant for so long as a Class B Membership exists. Class A members are entitled to one (1) vote for each Condominium owned by such Class A members which is subject to Assessment. Declarant shall become a Class A member on conversion of Declarant's Class B Membership as provided below. The vote for each Condominium shall be exercised in accordance with Section 4.5, but no more than one (1) Class A vote may be cast for any Condominium.

(b) **Class B.** The Class B member is Declarant. The Class B member is entitled to three (3) votes for each Condominium owned by Declarant which is

subject to Assessment. The Class B Membership shall convert to Class A Membership on the earlier to occur of the following events:

(i) The second (2nd) anniversary of the first Close of Escrow in the most recent Phase; or

(ii) The fourth (4th) anniversary of the first Close of Escrow in Phase 1;

(iii) The date that is 120 days after the Close of Escrow in which Declarant has conveyed 75% of the total number of Condominiums approved for the Community and Annexable Area to purchasers in transactions requiring a Public Report.

4.4.4. Class B Board Appointment Right. The Declarant, for the duration of its Class B Membership, shall also have a limited right to appoint a simple majority of the members of the Board of Directors (the "*Board Appointment Right*"). The Board Appointment Right may be exercised in any election occurring during its term without regard to whether, at the time votes may be cast in an election, the Declarant owns any Condominiums that are then subject to Annual Assessments.

(a) ***Limits on Exercise of Board Appointment Right.*** Until the expiration of the Board Appointment Right as determined below, the Declarant shall not be permitted to cast any of its Class A or Class B votes to elect any member of the Board of Directors. Instead, the Declarant's power to fill seats on the Board shall be limited solely to exercise of the Board Appointment Right. Following the expiration of the Board Appointment Right, the Declarant shall have the right to cast its Class A votes (if any) to elect members of the Board.

(b) ***Term of Board Appointment Right.*** The Board Appointment Right shall remain effective until the earlier of:

(i) the date on which the Class B Membership converts to Class A Membership; or

(ii) the date on which Declarant no longer owns any portion of the Community or Annexable Area; or

(iii) the date set by Declarant in a written notice delivered to the Board.

(c) ***No Amendment without Declarant Consent.*** Notwithstanding anything to the contrary in this Declaration, this Section 4.4.4 shall not be amended or terminated without the prior written consent of Declarant until the Board Appointment Right is no longer effective.

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

4.5.1. **Limits Generally.** All voting rights are subject to the Governing Documents. Except as provided in Sections 4.5.2 and 12.3 of this Declaration and as provided in the Bylaws, as long as there is a Class B Membership, any provision of the Governing Documents which expressly requires the vote or written consent of a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall require the approval of such specified percentage of the voting power of both the Class A and the Class B Memberships. Except as provided in Section 12.3 of this Declaration and as provided in the Bylaws, on termination of the Class B Membership, any provision of the Governing Documents which expressly requires the vote or written consent of Owners representing a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall then require the vote or written consent of Owners representing such specified percentage of both (a) the Association's total Class A voting power, and (b) the Association's Class A voting power represented by Owners other than Declarant.

4.5.2. **Relinquishment of Control Regarding Initiation of Right to Repair Act Claim.** Beginning on the date of the first annual meeting of Owners, Declarant relinquishes control over the Association's ability to decide whether to initiate a Right to Repair Act Claim, whether by action of the Board or action by the Owners. This means that Declarant, current employees and agents of Declarant, Board members who are appointed by Declarant, Board members elected by a majority of votes cast by Declarant, and all other Persons whose vote or written consent is inconsistent with the intent of the preceding sentence, are prohibited from participating and voting in any decision of the Board or the Owners to initiate a Right to Repair Act Claim.

4.5.3. **Joint Ownership.** When more than one (1) Person holds an interest in any Condominium ("*co-owners*"), each co-owner may attend any Association meeting, but only one (1) co-owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation is revoked, the vote for the Condominium shall be exercised as the co-owners owning the majority interests in the Condominium agree. Unless the Association receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the co-owners' consent. No vote may be cast for any Condominium if the co-owners present in person or by proxy owning the majority interests in such Condominium fail to agree to the vote or other action. The nonvoting co-owner or co-owners are jointly and severally responsible for all obligations imposed on the jointly-owned Condominium and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Governing Documents are binding on all Owners and their successors in interest.

4.5.4. **Ownership by Legal Entity.** When title to a Condominium is held by a legal entity recognized under California law ("*Entity Owner*") that is not a natural person, the governing authority of such Entity Owner may designate in writing to the Association one (1) natural person ("*Entity Owner Representative*") to exercise the single vote to which the Condominium is entitled. Fractional votes shall not be allowed. Where no designation of an

Entity Owner Representative is made or if the designation is revoked, the vote for the Condominium shall be exercised as determined by the Entity Owner. Unless the Association receives a written objection in advance of the election from the governing authority of the Entity Owner, it shall be conclusively presumed that the vote exercised by the Entity Owner was properly exercised in accordance with the Entity Owner's procedures.

4.6. **UNSEGREGATED REAL PROPERTY TAXES.** To the extent not assessed to or paid by the Owners, the Association shall pay all real and personal property taxes and assessments levied on the Community. If all Condominiums in a Phase are taxed under a tax bill covering all of such Phase, then each Owner shall pay the Owner's share of any installment due under the tax bill to the Association at least ten (10) days before the delinquency date. The Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date. The Association shall allocate taxes equally among the Owners and their Condominiums in such Phase, based on the total number of Condominiums in such Phase. The Association shall, at least forty five (45) days before the delinquency date of any tax installment, deliver to each Owner in such Phase a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay the Owner's share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay the Owner's share. The Association shall add to the Annual Assessment of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the tax bill for a Phase, which late charge results from the failure of the delinquent Owner to make timely payment of the Owner's share of the taxes. Until the conversion of the Class B membership to Class A, this Section may not be amended without the written consent of Declarant.

ARTICLE 5 DESIGN REVIEW COMMITTEE

5.1. **MEMBERS OF COMMITTEE.** The Design Review Committee shall be composed of three (3) members. The initial members of the Design Review Committee shall be representatives of Declarant until one (1) year after the original issuance of the Public Report for Phase 1 ("*First Anniversary*"). After the First Anniversary, the Board may appoint and remove one (1) member of the Design Review Committee, and Declarant may, but is not obligated to, appoint and remove a majority of the members of the Design Review Committee and fill any vacancy of such majority, until the earlier to occur of (a) Close of Escrow for the sale of ninety percent (90%) of all the Condominiums in the Community and the Annexable Area, or (b) the fifth (5th) anniversary of the original issuance of the Public Report for Phase 1, after which the Board may appoint and remove all members of the Design Review Committee. Design Review Committee members appointed by the Board must be Owners, but Design Review Committee members appointed by Declarant need not be Owners. Members of the Board of Directors may serve as Design Review Committee members.

5.2. POWERS AND DUTIES.

5.2.1. **General Powers and Duties.** The Design Review Committee shall consider and act upon all plans and specifications submitted for its approval, including inspection

of work in progress to assure conformity with plans approved by the Design Review Committee, and shall perform such other duties as the Board assigns to it.

5.2.2. Issuance of Standards. The Design Review Committee shall annually issue and update its Design Guidelines and provide notice of any requirements for Committee approval of proposed Improvements. The notice shall describe the types of proposed Improvements that require Committee approval, and it shall include a copy of the procedure used to review and approve or disapprove such proposed Improvements. The Design Guidelines or Rules and Regulations may set the amount of a fee required to accompany each application for approval, and may identify additional factors which the Design Review Committee will consider in reviewing submissions. The Design Review Committee may provide that fees it imposes be uniform, or that fees be determined in any other reasonable manner. The Design Review Committee may require such detail in plans and specifications submitted for its review as it deems proper, including landscape plans, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors.

5.2.3. Retaining Consultants. The Design Review Committee has the power, but not the duty, to retain licensed architects, contractors and other professionals to advise its members in connection with decisions.

5.3. REVIEW OF PLANS AND SPECIFICATIONS.

5.3.1. Improvements Requiring Approval. No Owner may construct, install or alter any Improvements in a Condominium which affects the structural integrity of the walls, floors and ceilings of the Condominium, any external structural or ornamental component of any Condominium Building, or any modification to any Exclusive Use Area without the prior written approval of the Design Review Committee. The provisions of this Article apply to construction, installation and alteration of solar energy systems, as defined in California Civil Code Section 801.5, subject to the provisions of California Civil Code Sections 714 and 714.1, the applicable Building Code, zoning regulations, and other laws. The Design Review Committee may review the Improvements' impact on (1) the structural integrity of the Condominium Building, (2) the safety of the Owners and the public, (3) the noise heard beyond the Condominium in which the Improvement is located, (4) fire safety, (5) common utilities and (6) the Association Property (collectively, the "***Design Factors***"). The Design Review Committee may review the impact the construction, installation, or altering of the Improvement has on the Design Factors, as well as the impact the completed Improvement has on the Design Factors.

5.3.2. Application Procedure. Owners who seek Committee approval shall submit plans and specifications showing the dimensions, exterior elevation, color, materials used and location of the proposed Improvements, along with an initial review fee in an amount set in writing from time to time by the Committee, along with all other deposits and review materials required under this Article (collectively, an "***Application***"). Until changed by the Board, the address for the submission of the Application is the Association's principal office. The form of Application used by the Design Review Committee may include spaces allowing "Adjacent Owners" to sign or initial the Application confirming that they have been notified of the application. The Design Review Committee may establish a definition of "Adjacent Owners" in

its Design Guidelines. Applications will be complete and may be approved or disapproved by the Design Review Committee even if all of the Adjacent Owners do not initial the Applications so long as the Owner submitting plans and specifications (the "**Applicant**") certifies that the Applicant has asked the Adjacent Owners to sign the Applications. The requirement that the Applicant attempt to obtain the signatures of Adjacent Owners is intended only to provide notice of the pending application to the Adjacent Owners. It does not create in the Adjacent Owners any power to approve or disapprove the Application by signing or withholding a signature. Only the Committee may approve or disapprove an Application.

The Design Review Committee shall deliver its written approval, disapproval, or request for additional information or materials to the Applicant at the address listed in the Application no later than the date that is forty-five (45) calendar days after the date on which the Design Review Committee has received the complete Application (the "**Review Deadline**"). If, on the Review Deadline, the Committee has failed to deliver to the Applicant its written approval, disapproval, or request for additional information or materials, then the Application shall be deemed approved, and the Manager or a representative of the Board or Committee shall at the request of the Applicant execute a written approval therefor within fifteen (15) days after receipt of such request.

5.3.3. Standard for Approval. A decision on a proposed Improvement shall be consistent with California law, made in good faith and may not be unreasonable, arbitrary or capricious. If disapproved, the written decision shall include both an explanation of why the proposed Improvement is disapproved and a description of the procedure for reconsideration by the Board. The Design Review Committee shall approve an Application only if it determines that (a) installation, construction or alterations of the Improvements in the locations proposed will not be detrimental to the appearance of the Community as a whole, (b) the appearance of the proposed Improvements will be in harmony with the existing Improvements and the overall design theme in the Community, (c) installation, construction or alteration of the proposed Improvements will not detract from the beauty, wholesomeness and attractiveness of the Community or the enjoyment of the Community by the Owners, (d) maintenance of the proposed Improvements will not become a burden on the Association, and (e) the proposed Improvements are consistent with the Governing Documents. The Committee's decision on a proposed change may not violate any governing provision of law, including the Fair Employment and Housing Act, or a building code or other applicable law governing land use or public safety. The Committee may consider the impact of views from other Condominiums, reasonable privacy right claims, passage of light and air, beneficial shading and other aesthetic factors in reviewing, approving or disapproving any Application. However, neither the Declarant nor the Association warrants that any views in the Community are protected. No Condominium is guaranteed the existence or unobstructed continuation of any particular view.

5.3.4. Conditions of Approval. The Design Review Committee may condition its approval of an Application for any Improvement on any one (1) or more of the following:

(a) The Applicant's delivery to the Association of security acceptable to the Association against any mechanic's lien or other encumbrance which may be

Recorded against the Association Property or another Owner's Condominium as a result of such work;

(b) The Applicant's delivery to the Association of the review fee described in Section 5.3.2 above;

(c) Such changes to the Application as the Design Review Committee considers appropriate;

(d) The Applicant's agreement to grant to the Association or other Owners such easements as are made reasonably necessary by the existence of the Improvement;

(e) The Applicant's agreement to install water, gas, electrical or other utility meters to measure any increased utility consumption;

(f) The Applicant's agreement to reimburse the Association for the cost of maintaining the Improvement (should the Association agree to accept maintenance responsibility for the Improvement as built);

(g) The Applicant's agreement to complete the proposed work within a stated period of time;

(h) If required by the Committee, the Applicant's deposit of adequate funds with the Association to repair or restore any Common Property that may be damaged by the Applicant or the Applicant's contractors. The Design Review Committee will determine the actual amount of the deposit in each case, but the amount shall be at least enough to cover the cost of repairing or restoring damage that is reasonably foreseeable to the Design Review Committee. The deposit shall be refundable to the extent the Design Review Committee finds that the work of Improvement is complete, and that the Common Property was not damaged or was restored at least to its condition when the work began;

(i) If required by the Committee, the submission of additional plans and specifications or other information before approving or disapproving the Application.

5.3.5. Governmental Approvals. The Applicant shall meet the requirements of all applicable ordinances, codes and regulations of the City County, including zoning laws, building and safety codes, fire codes and applicable inspection and permit requirements before making any construction, installation or alterations permitted under this Declaration. All approvals issued by the Committee are in addition to, and not in lieu of, applicable governmental approvals, which the Applicant must also obtain at his sole cost, prior to or concurrently with Committee approvals, and before commencing any work. Furthermore, governmental approvals are in addition to, and not in lieu of, Committee approvals required under the Governing Documents. No determination by any governmental agency that the Applicant has met applicable governmental requirements for a particular Improvement shall relieve the Applicant of its obligation to obtain all required Committee approvals required under this Article and the Governing Documents.

5.3.6. Matters Outside Scope of Approval. The Design Review Committee's approval or disapproval of each Application shall be based solely on the aesthetic considerations listed in this Article. Approval of any Application does not constitute a finding or a warranty by the Design Review Committee that the work of Improvement described in the Application or any portion of the Application (a) incorporates good engineering practices, (b) complies with applicable law, ordinance, code, or regulation, including zoning laws, building and safety codes or fire codes, (c) complies with the requirements of any utility provider, or (d) is permissible under the terms of any easement, license, permit, Mortgage, deed of trust, or other recorded or unrecorded instrument (other than the Governing Documents) that affects the land. Nothing in this Declaration shall be construed to require Design Committee approval of any construction, reconstruction, installation, removal or alteration of an Improvement by Declarant or by the Association.

5.3.7. Exculpation of Committee. By submitting an Application, each Applicant is deemed to agree that neither the Design Review Committee, nor the members thereof, nor Declarant, nor their respective agents, employees, attorneys or consultants shall be liable to any Person for:

- (a) Any matter outside the Committee's scope of approval as discussed in Section 5.3.6 above;
- (b) Any defect in any Improvement constructed by or on behalf of the Applicant pursuant to an approved Application;
- (c) Any loss, damage, or injury to Persons or property arising out of or in any way connected with work performed by or on behalf of the Applicant pursuant to an approved Application; or
- (d) Any loss, damage, or injury to Persons or property arising out of or in any way connected with the performance of the Design Review Committee's duties hereunder, unless due to willful misconduct or gross negligence.

5.4. MEETINGS AND ACTIONS OF THE DESIGN REVIEW COMMITTEE. The Design Review Committee shall meet as necessary to perform its duties. As long as a majority of the members of the Design Review Committee are Declarant representatives, the Design Review Committee may, by resolution unanimously adopted in writing, designate an Owner or a Declarant representative to serve as a Design Review Committee Representative to take any action or perform any duties for and on behalf of the Design Review Committee except the granting of variances. The Design Review Committee Representative need not be a current member of the Design Review Committee. In the absence of such designation, the vote or written consent of a majority of the Design Review Committee constitutes an act of the Design Review Committee. All approvals issued by the Design Review Committee must be in writing. Verbal approvals issued by the Design Review Committee, any individual Design Review Committee member or any other representative of the Association are not valid, are not binding on the Association and may not be relied on by any Person. If within six (6) months after issuance of the approval, an Owner either does not begin work pursuant to approved plans or

obtain an extension of time to begin work, the approval shall be automatically revoked and a new approval must be obtained before work can begin.

5.5. NO WAIVER OF FUTURE APPROVALS. The Design Review Committee's approval of any proposals, plans and specifications or drawings for any work done or proposed in connection with any matter requiring the Design Review Committee's approval does not waive the right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

5.6. COMPENSATION OF MEMBERS. The Design Review Committee's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

5.7. INSPECTION OF WORK. The Design Review Committee or its duly authorized representative may inspect any work for which approval of plans is required under this Article ("**Work**"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy (including removal of) any noncompliance with the Design Review Committee-approved plans for the Work or with the requirements of this Declaration ("**Noncompliance**").

5.7.1. Time Limit for Inspections. When the Work is complete, the Applicant shall immediately provide the Committee with written notice of completion on the form prescribed by the Committee. The Design Review Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate on the date that is sixty (60) calendar days after the date on which the Committee has received written notice from the Applicant on a form provided by the Committee that the Work is complete. If the Design Review Committee fails to send a written notice of Noncompliance to an Applicant before this time limit expires, the Work shall be deemed to comply with the approved Application.

5.7.2. Noncompliance. If an Improvement that requires the prior approval of the Design Review Committee is (a) commenced or completed without prior written approval by the Committee, (b) is not completed within the time limit established by the Committee in its approval, or (c) is not completed in substantial conformity with the approved Application, or (d) if no time limit is established by the Committee, the Applicant fails to complete the Work within one (1) year after the date on which the Application was approved, then a Noncompliance is deemed to exist, and then the Committee has the right, but not the obligation, to deliver a written notice of Noncompliance to the violating Owner, and the Association may, but is not required to, pursue the remedies set forth in this Section.

5.7.3. Remedy for Noncompliance. The Committee shall notify the Board in writing when an Owner fails to remedy any Noncompliance within sixty (60) days after the date of the notice of Noncompliance. After Notice and Hearing, the Board shall determine whether there is Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Association may record a Notice of Noncompliance (if allowed by law), correct the

Noncompliance and charge the Owner for the Association's costs, or commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

5.8. **VARIANCES.** The Design Review Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or the Design Guidelines including restrictions on height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Variances must be evidenced in writing, must be signed by a majority of the Committee, and become effective on Recordation. After Declarant's right to appoint a majority of the Design Review Committee's members ends, the Board must approve any variance recommended by the Design Review Committee before any such variance becomes effective. If variances are granted, no violation of this Declaration shall be deemed to have occurred concerning the matter for which the variances were granted. The granting of a variance does not waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision of this Declaration covered by the variance, nor does it affect the Owner's obligation to comply with all laws affecting the use of that Owner's Condominium. The Committee's written variance shall be Recorded against the Applicant's Condominium in the Official Records. The cost of Recording the variance shall be borne solely by the Applicant. No variance shall conflict with local ordinances or any specific plan for the Community without the prior written approval of the City.

5.9. **PRE-APPROVALS.** The Design Review Committee may authorize pre-approval of specified types of construction activities if, in the exercise of the Design Review Committee's judgment, a pre-approval is appropriate to carry out the purposes of the Governing Documents.

5.10. **APPEALS.** If a proposed Improvement is disapproved, the Applicant is entitled to reconsideration by the Board of Directors at an open meeting that satisfies the requirements of California Civil Code Section 4900, *et seq.* This paragraph does not require reconsideration of a decision that is made by the Board, or the Design Review Committee if the Committee has the same membership as the Board.

ARTICLE 6 PROPERTY EASEMENTS AND RIGHTS

6.1. EASEMENTS.

6.1.1. **Maintenance and Repair.** Declarant reserves for the benefit of the Association and all Association agents, officers and employees, nonexclusive easements over the Community as necessary to fulfill the obligations and perform the duties of the Association.

6.1.2. **Utility Easements.** Declarant reserves easements to install and maintain utilities over the Association Property for the benefit of the Owners and their Condominiums. Declarant reserves the right to grant additional easements and rights-of-way throughout the Community to utility companies and public agencies as it deems necessary for the proper development and disposal of the Community. Such right of Declarant shall expire on the Close of Escrow for the sale of the last Condominium in the Community and the Annexable Area.

6.1.3. **Encroachments.** Declarant reserves, for its benefit and for the benefit of all Owners and their Condominiums, a reciprocal easement appurtenant to each Condominium over the other Condominiums and the Association Property to accommodate (a) any existing encroachment of any wall or any other Improvement installed by Declarant or approved by the Design Review Committee, and (b) shifting, movement or natural settling of the Condominium Building or other Improvements.

6.1.4. **Easements for Public Service Use.** Declarant reserves easements over the Community for public services of the local government agencies, including but not limited to, the right of law enforcement and fire protection personnel to enter upon the Community to carry out their official duties.

6.1.5. **Easements for Water and Utility Purposes.** Declarant reserves easements over the Community for public and private utility purposes, including but not limited to, the right of any public utility or mutual water district of ingress and egress over the Community to read and maintain meters, and use and maintain fire hydrants.

6.1.6. **Completion of Improvements.** Declarant reserves the right and easement to enter the Community to complete any Improvement which Declarant considers desirable to implement Declarant's development plan.

6.1.7. **Owners' Easements in Association Property.** Declarant reserves, for the benefit of every Owner, and each Owner's Family, contractors, residents, tenants or invitees, nonexclusive easements for pedestrian and vehicular access (all as applicable) over the Association Property in the Community as reasonably necessary for the use and enjoyment of each Condominium in the Community. This easement is appurtenant to and passes with title to every Condominium in the Community, but is to be exercised subject to the rights, restrictions, covenants and easements in the Governing Documents and the Association's right to reasonably restrict access to rooftops, maintenance facilities and other areas of the Association Property that are designated by the Board.

6.1.8. **Access Easements.**

(a) ***Reserved for Declarant and the Annexable Area.*** Declarant reserves for its benefit and for the benefit of the owners of Condominiums located in the Annexable Area (whether annexed to the Community or not) easements for pedestrian and vehicular access, including construction access, and vehicular parking (where designated) over all Private Streets and sidewalks located within the Community.

(b) ***Reserved for Models.*** Declarant reserves for its benefit easements for pedestrian and vehicular ingress and egress over the Private Streets and through any entry gates serving the Community during business hours, seven (7) days per week, for access to those Condominiums within the Community which are used by Declarant, or its assignee, for models or sales offices, as permitted by the City. Declarant shall have the right to assign this easement, by written assignment, to any successor in interest. This easement shall terminate when the use of such Condominiums by Declarant or its assignee, for models or sales office purposes, has been permanently terminated.

6.1.9. **Exclusive Use Areas.** Declarant reserves for the benefit of specified Owners exclusive easements over the Association Property for use and enjoyment of Exclusive Use Areas as defined in this Declaration and assigned in the applicable Condominium Plan or in the Grant Deed to the Unit. The foregoing easements shall be conveyed by Recorded deed, and the easements so conveyed shall be appurtenant to and run with the Owner's Unit, subject to the right of the Association and its representatives to enter the Exclusive Use Areas to carry out Association maintenance and other obligations as further described in the Governing Documents.

6.1.10. **Telecommunications Easement.** Declarant reserves blanket easements (collectively, "*Telecommunications Easements*") over the Community for access and for purposes of constructing, installing, locating, altering, operating, maintaining, inspecting, upgrading, removing and enhancing Telecommunications Facilities (collectively, "*Telecommunications Purposes*") for the benefit of Declarant. Such easements are freely transferable by Declarant to any other Person and their successors and assigns. No one, except for Declarant and Declarant's transferees, may use the Community for Telecommunications Purposes. All Telecommunications Facilities shall be owned, leased or licensed by Declarant, as determined by Declarant, in its sole discretion and business judgment. Transfer of the Community does not imply transfer of any Telecommunications Easements or Telecommunications Facilities. The holders of the Telecommunications Easements may not exercise the rights reserved hereunder in any manner which will unreasonably interfere with the reasonable use and enjoyment of the Community by any Owner. If the exercise of any Telecommunications Easement results in damage to the Community, then the easement holder who caused the damage shall, within a reasonable period of time, repair such damage. If Declarant has not conveyed the Telecommunications Easements in a Phase to another Person before the last Close of Escrow in the Community and the Annexable Area, then Declarant grants the Telecommunications Easements to the Association effective as of the last Close of Escrow in the Community and the Annexable Area.

6.2. **DELEGATION OF USE.** Any Owner may delegate the Owner's right to use the Association Property in writing to the Owner's tenants, contract purchasers or subtenants who reside in such Owner's Unit, subject to regulation by the Board. An Owner who has delegated this right may not use the recreational facilities on the Association Property so long as such delegation remains in effect.

6.3. **RIGHT OF ENTRY.**

6.3.1. **Association.** The Association has the right to enter the Exclusive Use Areas and the Units to inspect and maintain the Association Property, including the Condominium Buildings and all Association-maintained Improvements, and take whatever corrective action it determines to be necessary or proper. Entry onto any Exclusive Use Areas and Unit under this Subsection may be made after at least three (3) days' advance written notice to the Owner of the Condominium except for emergency situations, which shall not require notice. For purposes hereof, an "emergency situation" is a situation in which there is an imminent threat of injury to persons or damage to property, as determined by the Board in the exercise of its sound business judgment. Any damage to a Unit or Exclusive Use Area or personal property therein that is caused by entry under this Subsection shall be repaired by the Association. In making such repair, the Association shall not be responsible for costs beyond

those necessary to repair or restore the damaged item to the condition it was in immediately prior to the damage.

6.3.2. **Declarant.** The Declarant has the right to enter the Exclusive Use Areas, the Units, and the Association Property in the Community (a) to comply with requirements for the recordation of subdivision maps or lot line adjustments in the Community, (b) for repair of Improvements in accordance with the provisions of the Right to Repair Act, (c) to accommodate grading or construction activities, and (d) to comply with requirements of applicable Local Government Agencies. Declarant shall provide the Association or the Owner (as applicable) reasonable notice before such entry, except for emergency situations, which shall not require notice. For purposes hereof, an "emergency situation" is a situation in which there is an imminent threat of injury to persons or damage to property, as determined by the Declarant. Any damage to the Association Property or to a Condominium or personal property therein that is caused by entry under this Subsection shall be repaired by the Declarant. In making such repair, the Declarant shall not be responsible for costs beyond those necessary to repair or restore the damaged item to the condition it was in immediately prior to the damage. Unless otherwise specified in the applicable initial grant deed by which Declarant has transferred ownership of the subject Condominium or subject Association Property, this right of entry shall automatically expire on the later of the date that is twelve (12) years after (a) the date this Declaration is Recorded, or (b) the date on which the grant deed is Recorded by which Declarant first conveyed fee title to the subject real property under authority of a Public Report.

6.3.3. **Owners.** Each Owner shall permit other Owners and their representatives to enter the Exclusive Use Areas and, subject to limitations set forth below, the Unit, in order to perform installations, alterations or repairs to the mechanical or electrical services to the entering Owner's Condominium if (a) requests for entry are made in advance, (b) entry is made at a time reasonably convenient to the Owner whose Exclusive Use Area or Unit is to be entered, and (c) the entered Exclusive Use Area or Unit is left in substantially the same condition as existed immediately preceding such entry. Notwithstanding the foregoing, an Owner shall not have the right to enter another Owner's Unit unless entry is reasonably necessary to enable the entering Owner to correct or repair an Improvement for which the entering Owner is responsible. Owners have no right to enter another Owner's Exclusive Use Area or Unit to perform maintenance or repair of any Association Property or any other Improvement for which the Association is responsible. Any damage to the entered Exclusive Use Area, the entered Unit, or any personal property therein which is caused by entry under this Subsection shall be repaired by the entering Owner. In making such repair, the entering Owner shall not be responsible for costs beyond those necessary to repair or restore the damaged item to the condition it was in immediately prior to the damage.

ARTICLE 7 ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

7.1. **PERSONAL OBLIGATION TO PAY ASSESSMENTS.** Each Owner shall pay to the Association all Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the amount necessary for the purpose for which it is levied. All Assessments, together with late payment penalties, interest, costs, and reasonable attorney fees for the collection thereof, are a charge and a

continuing lien on the Condominium against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs and reasonable attorney fees, is also the personal obligation of the Person who was the Owner of the Condominium when the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any new Owner ("**Purchaser**") unless expressly assumed by the Purchaser or unless the Purchaser has actual or constructive knowledge of such delinquent Assessments, whether by virtue of the Recordation of a Notice of Delinquent Assessment or receipt from the Association of a certificate pursuant to California Civil Code Section 4525.

7.2. ASSOCIATION MAINTENANCE FUND ACCOUNTS. The Association shall establish separate Association Maintenance Fund accounts into which shall be deposited all money paid to the Association and from which disbursements shall be made, as provided in this Declaration. The Association Maintenance Fund accounts shall be established as trust accounts at a banking or savings institution and shall include: (a) an Operating Fund for current Common Expenses, (b) an adequate Reserve Fund for the portion of Common Expenses allocated to reserves for Improvements which the Board does not expect to repair or replace on an annual or more frequent basis; and (c) any other funds which the Association may elect to establish. The Association shall require the bank or savings institution to send monthly account statements for all accounts directly to the Association. If a Manager is retained by the Association, then the Manager shall maintain records and bank accounts for the Association separate from other associations that use the Manager's services, and the Manager shall have no authority to draw checks on, or transfer funds from, any Reserve Fund of the Association.

7.3. PURPOSE OF ASSESSMENTS. Annual Assessments shall be used exclusively to (a) promote the Owners' recreation and welfare, (b) operate, improve and maintain the Common Property, and (c) discharge any other Association obligations under this Declaration. All amounts deposited into the general Operating Fund and general Reserve Fund must be used solely for the common benefit of all Owners as authorized by this Declaration. Disbursements from any Operating Fund (including the general Operating Fund) generally shall be made by the Association to discharge Association responsibilities which cannot be discharged by disbursements from the corresponding Reserve Fund. However, if the Board determines that the general Operating Fund contains excess funds, the Board may transfer the excess funds to any other Association Maintenance Fund. Disbursements from the general Reserve Fund shall be made by the Association only for the purposes specified in this Article and in California Civil Code Sections 5510(b) and 5515, and only in accordance with California Civil Code Sections 5380, 5502, and 5510.

7.4. WAIVER OF USE. No Owner may be exempt from personal liability for Assessments duly levied by the Association, nor release such Owner's Condominium from the liens and charges thereof, by waiving use and enjoyment of the Association Property or by abandoning such Owner's Condominium.

7.5. LIMITS ON ANNUAL ASSESSMENT INCREASES. The following shall apply to the general component of Annual Assessments:

7.5.1. Maximum Authorized Annual Assessment For Initial Year of Operations. During the Fiscal Year in which Annual Assessments commence, the Board may

levy an Annual Assessment per Condominium in an amount which exceeds one hundred twenty percent (120%) of the amount of Annual Assessments disclosed for the Community in the most current Budget filed with and reviewed by DRE only if the Board first obtains the approval of Owners casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Condominiums are represented ("**Increase Election**"). This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.5.

7.5.2. Maximum Authorized Annual Assessment For Subsequent Fiscal Years. During the Fiscal Years following the Fiscal Year in which Annual Assessments commence, the Board may levy Annual Assessments which exceed the Annual Assessments for the immediately preceding Fiscal Year only as follows:

(a) If the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must either (1) have distributed the Budget for the current Fiscal Year in accordance with California Civil Code Section 5300, or (2) obtain the approval of Owners casting a majority of votes in an Increase Election; or

(b) If the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must obtain the approval of Owners casting a majority of votes in an Increase Election.

This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.5.

7.5.3. Supplemental Annual Assessments. If the Board determines that the Association's essential functions may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in Sections 7.5.1, 7.5.2 and 7.5.5, the Board may levy a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Condominium.

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

7.5.5. Emergency Situations. For purposes of Sections 7.5.1, 7.5.2 and 7.7, an "Emergency Situation" is any one of the following:

(a) An extraordinary expense required by an order of a court;

(b) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible where a threat to personal safety on the Community is discovered; and

(c) An extraordinary expense necessary to maintain the portion of the Community for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Before imposing or collecting an Assessment pursuant to this Subsection (c), the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Owners with the notice of the assessment.

7.6. ANNUAL ASSESSMENTS.

7.6.1. Commencement of Annual Assessments. Except as provided below, Annual Assessments shall commence on all Condominiums in a Phase on the first day of the first calendar month following the first Close of Escrow in such Phase.

7.6.2. Assessment and Proration. Annual Assessments for fractions of a month shall be prorated. Declarant shall pay its full pro rata share of the Annual Assessments on all unsold Condominiums for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. However, unless otherwise established by the Board, the initial Annual Assessments shall be assessed in accordance with the most recent Budget on file with and reviewed by DRE. Written notice of any change in the amount of any Annual Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent by first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days before the increased Assessment becomes due.

7.6.3. Apportionment of Annual Assessments. All Annual Assessments shall be assessed uniformly and equally against the Owners and their Condominiums based on the number of Condominiums owned by each Owner.

(a) ***Disposition of Funds Remaining at End of Fiscal Year.*** The Board may determine that funds remaining in the Operating Fund at the end of the Fiscal Year be retained and used to reduce the following Fiscal Year's Annual Assessments.

(b) ***Disposition of Funds Remaining at Abandonment or Termination of Community.*** On dissolution of the Association incident to the abandonment or termination of the Community as a condominium project, any amounts remaining in any of the Association Maintenance Funds shall be distributed to or for the benefit of the Owners in the same proportions as such money was collected from the Owners.

(c) ***Revisions to Budgeted Common Expenses.*** The Board has the power to revise the Budget from time to time, including making changes to the Common Expenses listed in the Budget, without amending this Declaration. In the event of a conflict between this Declaration and the adopted Budget, the adopted Budget shall control.

7.6.4. Payment of Annual Assessments. Each Owner shall pay Annual Assessments in installments at such frequency, in such amounts and by such methods as are established by the Board. If the Association incurs additional expenses because of a payment method selected by an Owner, the Association shall charge the additional expenses to the Owner. Each installment of Annual Assessments may be paid to the Association in one (1) check or in separate checks as payments attributable to specified Association Maintenance Funds. If any payment of an Annual Assessment installment (a) is less than the amount assessed and (b) does not specify the Association Maintenance Fund or Funds into which it should be deposited, then the amount received shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

7.7. SPECIAL ASSESSMENTS. The Board may levy, in any Fiscal Year, (a) a Capital Improvement Assessment to defray, in whole or in part, the Association's costs described in Section 1.1.14, (b) a Reconstruction Assessment to defray the Association's extraordinary expense of repair or reconstruction of Common Property in the situations described in California Civil Code Section 5610, or (c) a Special Assessment or increase for other purposes permissible under California Civil Code Section 5610.

7.7.1. Limitations. No Capital Improvement Assessment or Special Assessment described in part (c) of Section 7.7 above may be levied in any Fiscal Year which, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceed five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year, may be levied without the vote or written consent of Owners casting a majority of votes at an Increase Election. This Section does not apply to Special Assessments described in Sections 1.1.78(a) or 1.1.78(b).

7.7.2. Emergencies. The Board may levy, in any Fiscal Year, a Reconstruction Assessment or Special Assessment described in part (c) of Section 7.7 above applicable to that Fiscal Year which exceeds five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 7.5.5. This Section does not apply to Special Assessments described in Sections 1.1.78(a) or 1.1.78(b).

7.8. CAPITAL CONTRIBUTIONS TO THE ASSOCIATION. No capital contribution shall be required on the acquisition of record title to a Condominium in a transaction requiring issuance of a Public Report, unless required by the VA. If required, each buyer of a Condominium shall contribute to the capital of the Association such amounts as are determined by Declarant to be necessary to cover the initial months of operation of the Community. This contribution shall be deposited by the buyer into a purchase and sale escrow and disbursed therefrom to the Association, or to Declarant (if Declarant has previously advanced such funds on the Owners' behalf).

ARTICLE 8 INSURANCE

8.1. DUTY TO OBTAIN INSURANCE; TYPES. The Association shall obtain and keep in effect at all times the following insurance coverages: