

(3) Disputes Between an Owner and A Merchant Builder for Alleged Defects in the Design and/or Construction of the Owner's Dwelling. All disputes between a Merchant Builder and an Owner (and/or a Sub-Association) arising from, relating to or in any way connected with alleged defects in the design and/or construction of the Owner's Dwelling or other Improvements to his Lot or Condominium (or the Sub-Association Property) shall be resolved in accordance with the dispute resolution provisions, if any, set forth in either: (i) the purchase and sale documentation between the Merchant Builder and the affected Owner; or (ii) any document recorded by the Merchant Builder on the affected Lot or Condominium (or the Sub-Association Property). In any event, all disputes that involve the Declarant, the Master Association, the Master Association Property and/or the Maintenance Areas as provided in subsection (c)(2) above shall be resolved in accordance with the judicial reference provisions set forth in subsection (e) below.

(d) Conditions Precedent to Commencing Legal Proceedings for Certain Disputes.

(1) Disputes Subject to Section 1354 of the California Civil Code. With respect to all disputes subject to California Civil Code Section 1354, before commencing any legal proceedings to resolve such disputes, the Master Association and each Owner (including Declarant and each Merchant Builder as an Owner) covenant and agree to comply with the mandatory ADR procedures set forth in Section 1354. If the parties to such dispute are unable to resolve the dispute by the mandatory ADR proceedings, the parties shall resolve the dispute by judicial reference in accordance with the provisions of subsection (e) below.

(2) Disputes Regarding Alleged Defects in the Design and/or Construction of the Master Association Property or Maintenance Areas, or Damage to A Lot or Condominium Integrally Related Thereto.

(i) Compliance with Civil Code Section 1375. Subject to subsection (c)(1) above, before commencing any legal proceedings against any of the Developer Parties based upon a claim for damage to the Master Association Property or Maintenance Area, or for damage to any

Lot or Condominium or any Sub-Association Property in the Community which is integrally related to any damage to the Master Association Property or Maintenance Area, the Master Association, each Sub-Association and each Owner covenant and agree that the Master Association, Sub-Association and each Owner (notwithstanding that Section 1375 does not expressly apply to Owners by its terms) will comply with the provisions of California Civil Code Section 1375. If the parties to such dispute are unable to resolve the dispute in accordance with the procedures set forth in Section 1375, the parties shall resolve the dispute by judicial reference in accordance with the provisions of subsection (e) below. In all cases, each party shall be solely responsible for its own attorneys' fees.

(ii) Special Meeting of the Master Association for Disputes Regarding Construction Defects. As more particularly set forth in the Bylaws, in the event the Board either rejects a settlement offer as referenced in Section 1375 or decides to commence an action for damages pursuant to Section 1375 or any other provision of California law, the Secretary shall first call a special meeting of the Members. In addition to the information required by Section 1375 to be specified in the notice of such meeting, the notice shall also specify the following: (1) a good faith estimate of the costs to repair the alleged defects prepared by a licensed general contractor who has submitted a bid to perform the necessary repair work; (2) how the necessary repairs will be funded; (3) the name of the attorney whom the Master Association is contemplating retaining and an estimate of the attorney's fees, consultant's fees and any other costs to be incurred to prosecute such proceedings; (4) how such fees and costs will be funded; (5) each Member's duty to disclose to prospective purchasers the alleged defects; and (6) the potential impact the proceedings may have on the marketability and availability of financing and/or insurance for Lots and/or Condominiums in the Community.

(e) Judicial Reference. All disputes required to be resolved by judicial reference as provided herein, and any other unresolved dispute that the parties desire to resolve by judicial reference, shall be submitted to general judicial reference pursuant to California Code of Civil Procedure Sections 638(1) and 641 through 645 or any successor statutes thereto. The parties to the dispute shall cooperate in the judicial reference proceedings. The Referee shall have the authority to try, and shall try, all issues, whether of fact or law, including, without limitation, the validity, scope and enforceability of these dispute resolution procedures, and shall report a statement of decision to the court. The judicial reference proceedings shall be conducted pursuant to procedures specified by the selected Referee and set forth herein, provided that the following rules and procedures shall apply in all cases unless all parties agree otherwise in writing.

(1) The parties shall agree upon a single referee within (10) days of receipt by any party of a written request to resolve such dispute by judicial reference. If the parties are unable to agree upon a Referee within such ten (10) day period, then any party may thereafter seek to have a Referee appointed under the California Code of Civil Procedure Sections 638 and 640. If the Referee is appointed by the Court, the Referee shall be a neutral and impartial retired judge with substantial experience in relevant matters from Judicial Arbitration and Mediation Service ("JAMS"), the American Arbitration Association ("AAA") or similar mediation/arbitration entity. The proposed Referee may be challenged for any of the grounds listed in Section 641 of the California Code of Civil Procedure.

(2) The judicial reference proceedings shall proceed without a jury, and the parties acknowledge and agree that they are waiving any and all rights to a jury trial.

(3) The parties shall be entitled to conduct all discovery as provided in the California Code of Civil Procedure, and the Referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge, with rights to regulate discovery and to issue and/or enforce

subpoenas, protective orders or other limitations on discovery available under California law.

(4) The judicial reference proceedings shall be conducted in accordance with California law (including the rules of evidence), and in all regards the Referee shall follow California law as applicable at the time of the reference proceedings. The Referee may issue any remedy or relief, other than punitive damages, which the courts of the State of California could issue if presented the same circumstances, and the Referee shall follow and otherwise employ the standards for issuing such relief as defined by California law. The Referee may require one or more pre-hearing conferences. A stenographic record of the proceedings shall be made. The Referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable. The Referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge. The statement of decision of the Referee upon all of the issues considered by the Referee shall be binding upon the parties, subject to rights of appeal as provided below, and upon filing of the statement of decision with the clerk of any court of the State of California having jurisdiction thereof, or with the judge where there is no clerk, judgment may be entered thereon in the same manner as if the action had been tried by the court. The judgment and decision of the Referee shall be appealable in the same manner and subject to the same rules as if rendered by the court.

(5) If a dispute involves parties other than those listed in this Section, this provision shall be interpreted to bring such third-party disputes into the general reference procedure prescribed herein to the extent permitted by law and by the provisions of this Master Declaration. All parties shall cooperate in good faith to ensure that necessary and appropriate parties are included in the judicial reference proceeding. Declarant shall not be required to participate in the judicial reference proceedings if all parties against whom Declarant has necessary or permissive cross-claims or counterclaims, including, without limitation, other Developer Parties, will not or cannot be joined in the judicial reference proceeding, such that Declarant would be forced to litigate in multiple forums or

potentially face inconsistent rulings. If Declarant is not a party to the judicial reference proceedings, any Merchant Builder that is a party to such proceedings shall have the same rights as Declarant hereunder.

(6) The exclusive venue for all judicial reference proceedings shall be the County in which the Community is located, unless all parties agree to a different location; and

(7) Except where attorneys' fees are awarded as an element of sanctions or pursuant to a written agreement, the parties shall bear their own attorneys' fees in any proceedings conducted hereunder. In any dispute involving Declarant on the one hand, and the Master Association, a Sub-Association or an Owner on the other hand, the Master Association, Sub-Association or the Owner shall advance an amount equal to the cost of filing a civil action for the same claim in the appropriate state court in the County in which the Community is located, and Declarant shall advance the initiation/filing fees in excess of the amount advanced by the Master Association, Sub-Association or the Owner. Unless otherwise agreed to by the parties or ordered by the Referee, all other costs and fees of the proceedings shall be advanced equally by the parties to the proceedings. For all disputes not involving the Declarant, the initiation/filing fees and all other costs and fees of the proceedings shall be advanced equally by each party to the proceedings (unless otherwise agreed among the parties or ordered by the Referee). In all cases, the costs and fees (including, without limitation, the initiation/filing fees, but excluding attorneys' fees) of such judicial reference proceedings shall ultimately be borne as determined by the Referee in his discretion as the interests of justice dictate. The Referee may award litigation costs to the prevailing party.

(f) **WAIVER OF COURT AND JURY TRIAL. AS TO ALL DISPUTES SUBJECT TO THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS SET FORTH OR REFERENCED IN THIS SECTION, THE MASTER ASSOCIATION, ANY SUB-ASSOCIATION, EACH OWNER AND THE DEVELOPER PARTIES WAIVE ANY RIGHTS TO JURY TRIAL, APPEAL AND OTHER CIVIL LITIGATION PROCEEDINGS FOR SUCH**

DISPUTES, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH OR REFERENCED HEREIN. IN THE EVENT ANY OF THE PROCEDURES SET FORTH OR REFERENCED HEREIN ARE DETERMINED TO BE INVALID OR UNENFORCEABLE, IN WHOLE OR IN MATERIAL PART, SUCH THAT THE RESOLUTION OF THE DISPUTE SHALL PROCEED BY WAY OF CIVIL LITIGATION PROCEEDINGS, THE MASTER ASSOCIATION, ANY SUB-ASSOCIATION, EACH OWNER AND THE DEVELOPER PARTIES NONETHELESS WAIVE THE RIGHT TO JURY TRIAL WITH RESPECT TO SUCH DISPUTE.

(g) WAIVER OF PUNITIVE DAMAGES. AS TO ALL DISPUTES SUBJECT TO THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS SET FORTH OR REFERENCED IN THIS SECTION, THE MASTER ASSOCIATION, ANY SUB-ASSOCIATION, EACH OWNER AND THE DEVELOPER PARTIES WAIVE ANY RIGHTS TO PUNITIVE OR EXEMPLARY DAMAGES.

(h) Severability. If any provision of this Section is for any reason held to be invalid, unenforceable or contrary to any public policy, law, statute and/or ordinance, then the remainder of the provisions shall not be affected thereby and shall remain valid and fully enforceable.

(i) Amendments. The provisions of this Section may not be amended without the prior express written consent of Declarant.

## ARTICLE VI ASSESSMENTS

### Section 1. Creation of the Lien and Personal Obligation of Assessment.

The Declarant, for and on behalf of itself and all Merchant Builders, hereby covenants, and each Owner of a Lot or Condominium, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association the following Assessments which are levied by the Master Association against such Owner's Lot or Condominium; (a) Regular Assessments; (b) Special Assessments; (c) Compliance Assessments; (d) Damage Reimbursement Assessments; (e) Special Benefit Assessments; and (f) such other

assessments as the Master Association may periodically establish. The Regular, Special, Damage Reimbursement and Special Benefit Assessments, together with a reasonable late charge established by the Board in accordance with California law, interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot or Condominium against which each such Assessment is made and shall also be the personal debt of the Owner of such property at the time when the Assessment became due. Each Compliance Assessment levied against an Owner, together with such reasonable late charge, interest, costs and reasonable attorneys' fees for the collection thereof, shall be the personal obligation of the Owner of the Lot or Condominium at the time such Assessment is levied. The personal obligation for any delinquent Assessments shall not pass to an Owner's successors in title, unless expressly assumed by them.

Section 2. Purpose of Regular Assessments: Levy and Collection. The Regular Assessments levied by the Master Association shall be used exclusively to fund the performance by the Master Association of its powers and duties as set forth in Article V so as to promote the health, safety and welfare of the Owners and other residents within the Community. In no event may the Regular Assessments (or any other Assessments) levied by the Master Association be used to abate any nuisance arising from outside the boundaries of the Community, to fund any political campaigns or ballot measures whatsoever or to otherwise fund participation in, support for or opposition to any cause or activity pertaining to matters which are not exclusively within the Community. The Master Association, by and through its Board, shall levy and collect Assessments in an amount sufficient to cover all of the Common Expenses incurred by the Master Association in connection with the performance and execution of the powers and duties set forth in the Master Association Documents. The Master Association shall not levy, impose or collect Assessments, penalties or fees that exceed the amount reasonably necessary for the purpose(s) for which they were levied. Subject to any subsidy or maintenance agreement or other procedures approved by the DRE, Regular Assessments levied by the Master Association shall be adjusted at such time as the annexation of a subsequent Phase becomes effective. Regular Assessments may be collected on a monthly installment basis.

Section 3. Regular Assessments - Basis. Except as otherwise provided in the Article herein entitled "Apartment Areas," Regular Assessments shall be levied equally against all Lots and Condominiums in the Community. Regular Assessments may be reduced

and abated in accordance with any maintenance or subsidy agreement entered into by the Master Association, or other arrangement approved by the DRE.

During the period the Community is being built out, Declarant and/or the Merchant Builders may annex one or more Phases into the Community in accordance with the provisions of this Master Declaration. Because Regular Assessments will typically change in amount each time a Phase is annexed into the Community and because the annexation of additional Phases might occur in quick succession, in order to facilitate the orderly annexation of Phases and to avoid the confusion and administrative burden which would result from multiple changes in the amount of the Regular Assessments as additional Phases are annexed into the Community, Declarant, with the DRE's approval, has established a "Level Range of Assessment" procedure.

Unless terminated earlier by Declarant with the DRE's approval, the Level Range of Assessment procedure set forth hereinbelow shall be effective during the period additional Phases may be annexed into the Community without the approval of the Master Association, as set forth in the Article hereinbelow entitled "Annexation of Additional Property."

(a) Calculation of the Range of Assessments. A "range" in the amount of the monthly installment of Regular Assessments has been established by calculating an initial "Minimum Regular Assessment" and a "Maximum Regular Assessment" based upon the respective budget for each Phase of the Community prepared by the Declarant and approved by the DRE. Except as otherwise provided below, the Minimum and Maximum Regular Assessments represent the lowest and the highest Regular Assessment that may be levied by the Master Association for certain Phases of the Community. Utilizing this range procedure, as additional Phases are annexed into the Community, the monthly installment of the Regular Assessments levied by the Master Association can automatically increase or decrease, but will remain within the range approved by the DRE and set forth in the Final Subdivision Public Reports issued by the DRE for such Phases.

The initial range approved by the DRE may be recalculated and adjusted, from time to time, with the approval of Declarant and the DRE in order to account for various changes in circumstances (including, but not limited to, construction of additional Improvements on the Master Association Property, the delegation to or assumption by the



Master Association of additional maintenance responsibilities, and the incurring of unanticipated extraordinary expenses by the Master Association).

Except as otherwise provided herein, during any given fiscal year of the Master Association, the Board shall not levy a Regular Assessment that exceeds the approved Maximum Regular Assessment for that fiscal year. Notwithstanding the foregoing, a Maximum Regular Assessment may be increased as provided in Section 5 below. Each Owner acknowledges and agrees that the provisions in Section 5 below which limit increases and decreases in Regular Assessments are not intended to and shall not be construed to limit increases or decreases in Regular Assessments within the approved range so long as such increase or decrease is the result of the annexation of a subsequent Phase into the Community.

(b) Level Regular Assessments within the Range. In order to stabilize the amount of the monthly installment of Regular Assessments within the range while additional Phases are being annexed into the Community, Declarant, with the DRE's approval, will fix (i.e., level) the amount of the monthly installment of Regular Assessments for three or more Phases regardless of the fact that additional Phases are being annexed into the Community. The "level" amount of the monthly installment of Regular Assessments will fall within the range approved by the DRE. The level Regular Assessments may either temporarily accrue a surplus or permit a previously accrued surplus to be gradually depleted. Declarant may, from time to time, adjust the amount of the level Regular Assessment within the approved range, subject to the prior approval of the DRE. Unless terminated earlier by Declarant with the DRE's approval, the Level Regular Assessment procedure set forth below shall be effective during the period additional Phases may be annexed into the Community without the approval of the Master Association, as set forth in the Article below entitled "Annexation of Additional Property." During the period the Level Regular Assessment procedure is in effect, the Master Association shall maintain a separate bank account in which to deposit the accrued surplus funds collected and shall only withdraw the accrued surplus funds from that account to fund the Common Expenses of the Master Association as contemplated by the Master Association's budget which was approved by the DRE. The Master

Association's annual audit shall include an audit of the surplus funds accrued and expended under the Level Regular Assessment procedure.

Section 4. Assessment Exemptions. Notwithstanding the commencement of Regular Assessments in accordance with the provisions of this Master Declaration, Declarant, each Merchant Builder and any Owner shall be exempted from the payment of that portion of any Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of any portion of the Master Association Property and/or Maintenance Areas that are not complete at the time Assessments commence. This exemption shall only be in effect until the earlier of: (a) the recordation of a notice of completion for such portion of the Master Association Property and/or Maintenance Areas; or (b) the placement into use of such Master Association Property or Maintenance Areas.

Section 5. Limitations on Increases and Decreases in Regular Assessments. Subject to the limitations of California Civil Code Section 1366, as same may be amended from time to time, and further subject to the provisions regarding Level Regular Assessments procedure set forth in Section 3 above, from and after the first day of the fiscal year immediately following the first Close of Escrow for the sale of a Lot or Condominium to an Owner, the Board may increase the maximum Regular Assessment subject to the following limitations:

(a) Increases in Regular Assessments for any fiscal year which are less than or equal to twenty percent (20%) above the maximum Regular Assessment for the immediately preceding fiscal year may be approved by the Board, provided that the Board shall: (1) comply with the provisions set forth in Section 1365(a) of the California Civil Code with respect to the distribution of the pro forma operating budget of the Master Association for the forthcoming fiscal year; or (2) obtain the approval of Delegates constituting a quorum, and casting a majority of votes at a meeting or at an election of the Master Association conducted in accordance with California Corporations Code Sections 7510, et seq., and Sections 7613, et seq. For purposes of this Section, a quorum means Delegates representing more than fifty percent (50%) of the total voting power of the Master Association;

(b) Increases in Regular Assessments for any fiscal year which are greater than twenty percent (20%) above Regular Assessments for the immediately preceding fiscal year may be approved by the Board only after the Board obtains the

approval of Delegates constituting a quorum and casting a majority of votes at a meeting or election of the Master Association, conducted in accordance with Sections 7510, et seq., and Section 7613 of the Corporations Code; and

(c) The limitation on increases in Regular Assessments set forth in subsection (b) above does not apply to increases in Regular Assessments related to emergency situations, which shall be deemed to include the following:

(1) Extraordinary expenses required by an order of a court of competent jurisdiction;

(2) Extraordinary expenses to maintain or repair any Master Association Property (excluding Special Benefit Improvements) and/or Maintenance Areas necessary to remedy any dangerous condition that represents a threat of damage or injury to persons or property; and

(3) Extraordinary expenses necessary to repair or maintain the Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas that could not have been reasonably anticipated by the Board at the time the most recent Master Association budget was prepared. Notwithstanding the foregoing, if the Board increases the Regular Assessment above twenty percent (20%) pursuant to this subparagraph (3), the Board shall distribute written notice concerning such increase to all Owners, together with a copy of a resolution adopted by the Board setting forth: (i) written findings as to the necessity of the extraordinary expenses; and (ii) the justification why said expenses were or could not have been reasonably foreseeable at the time the most recent budget was prepared.

The Board may fix the Regular Assessment at an amount not in excess of the maximum Regular Assessment. So long as Declarant and/or any Merchant Builder is offering Lots and/or Condominiums for sale pursuant to a Final Subdivision Public Report, the Regular Assessment may not be decreased by ten percent (10%) or more without the prior express written consent of the Declarant and the DRE. Notwithstanding the foregoing, following the annexation of a subsequent Phase of the Community pursuant to the provisions set forth in this Master Declaration, the amount of the monthly installment of Regular Assessment may be automatically increased (or decreased) for all Lots and

Condominiums in the Community on the first day of the month following the first Close of Escrow for the sale of a Lot or Condominium in said Phase without any approval of the Members of the Master Association to the amount recommended by the DRE in connection with its review and processing of the Master Association budget.

Section 6. Special Assessments. Subject to the limitations set forth in California Civil Code Section 1366, as same may be amended from time to time, the Board may levy Special Assessments to defray the costs of any action or undertaking on behalf of the Master Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year; provided that the Board shall first obtain the approval of Delegates constituting a quorum and casting a majority of votes at a meeting or an election of the Master Association conducted in accordance with Sections 7510, et seq., and 7613 of the Corporations Code. (For purposes of this Section, a quorum means Delegates representing more than fifty percent (50%) of the total voting power of the Master Association.) The five percent (5%) limitation shall not apply to increases in Special Assessments related to an emergency situation which shall be deemed to include the following:

(a) Extraordinary expenses required by an order of a court of competent jurisdiction;

(b) Extraordinary expenses for the maintenance or repair of Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas that are necessary to remedy any dangerous condition in the Community that represents a threat of damage or injury to any person or property; and

(c) Extraordinary expenses necessary to repair or maintain Master Association Property and/or Maintenance Areas that could not have been reasonably anticipated by the Board at the time the most recent Master Association budget was prepared. Notwithstanding the foregoing, in the event the Board levies any Special Assessment that exceeds the five percent (5%) limitation pursuant to this Section, the Board shall distribute written notice concerning said Special Assessment to all Owners, together with a copy of a resolution adopted by the Board setting forth: (1) written findings as to the necessity of said Special Assessment; and (2) the

justification why said Special Assessment was not or could not have been reasonably foreseeable at the time the most recent budget was prepared.

Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments. Notwithstanding the foregoing, Special Assessments levied by the Master Association in connection with the maintenance, repair or replacement of any Special Benefit Improvements shall be levied solely against the Owners of the Lots or Condominiums within the respective Special Benefit Area in accordance with the provisions of Section 7 below. Special Assessments may be collected on a monthly installment basis or on such other basis as the Board may determine.

Section 7. Special Benefit Assessments. The Board may levy Special Benefit Assessments against an Owner and his respective Lot or Condominium to cover Special Benefit Expenses incurred by the Master Association for a Special Benefit Area. As more particularly set forth in the Article herein entitled "Powers and Duties of the Master Association," the Board shall distribute to the Owners within each Special Benefit Area, concurrently with the distribution of the overall operating budget for the Master Association, a pro forma operating budget and/or other pertinent financial statements for the respective Special Benefit Area, and shall set forth the amounts and payment schedule of the Special Benefit Assessments. Each Special Benefit Assessment shall be due thirty (30) days after such Assessment has been levied, and unless otherwise specified by the Board, shall be billed and collected monthly with the Regular Assessment levied against the respective Lot or Condominium. Increases in Special Benefit Assessments shall be subject to the same limitations set forth in the Section 5 hereinabove and the levy of Special Assessments relating to the maintenance, repair and/or replacement of Special Benefit Improvements shall be subject to the same limitations set forth in Section 6 hereinabove; provided however, the Board need only obtain approval from the Delegates constituting a quorum and casting a majority of votes at a meeting or election conducted in accordance with Section 7510 et seq. and 7613 of the Corporations Code. For purposes of this Section, a quorum means Delegate(s) representing more than fifty percent (50%) of the voting power of the Members owning Lots or Condominiums within the respective Special Benefit Area.

Section 8. Compliance Assessments. A Compliance Assessment may not be characterized or treated as an assessment which may become a lien against the Owner's Lot or Condominium enforceable by a sale in accordance with the provisions of Section 2924, 2924(b) and 2924(c) of the California Civil Code; provided, however, the foregoing shall not apply to any Compliance Assessment imposed against an Owner consisting of a reasonable late payment penalty for delinquent Assessments and/or charges to reimburse the Master Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments. Compliance Assessments shall be due thirty (30) days after such Assessment is imposed.

Section 9. Damage Reimbursement Assessments. If, after Notice and Hearing, the Board determines that any maintenance or repairs to the Master Association Property or Maintenance Areas are required as the result of damage or destruction thereto caused by the negligent or intentional acts of any Owner, the members of his family or his tenants, lessees or invitees (or of a Sub-Association), the Board may levy a Damage Reimbursement Assessment against such Owner and his Lot or Condominium (or against such Sub-Association) as a means of reimbursing the Master Association for all costs to repair the damaged or destroyed Master Association Property or Maintenance Area. A Damage Reimbursement Assessment shall become a lien against the Owner's Lot or Condominium (or the Sub-Association's Sub-Association Property) which is enforceable by sale pursuant to Sections 2924, 2924 (b) and 2924 (c) of the California Civil Code, as same may be amended from time to time.

Section 10. Notice of Increase in Assessments. The Board shall provide notice by first class mail to the Owners of any increase in Regular, Special or Special Benefit Assessments not less than thirty (30) nor more than sixty (60) days prior to such increase becoming due.

Section 11. Date of Commencement of Regular Assessments: Due Dates. Subject to the terms of any maintenance and/or subsidy agreement entered into between the Master Association and Declarant (or a Merchant Builder), Regular Assessments shall commence as to all Lots and Condominiums within a Phase of the Community on the first day of the month after the happening of either of the following events, whichever occurs first: (a) the first Close of Escrow for the sale of a Lot or Condominium to a bona fide purchaser in such Phase; or (b) the conveyance of any Master Association Property in such Phase to the Master

Association; provided however, Regular Assessments shall commence as to the Apartments in an Apartment Area which has been annexed into the Community in accordance with the provisions of the Article herein entitled "Apartment Areas." The first Regular Assessments shall be adjusted according to the number of months remaining in the fiscal year as set forth in the Bylaws. The Board shall fix the amount of the Regular Assessment at least thirty (30) days in advance of each Regular Assessment period.

Section 12. Collection of Assessments. Except as otherwise provided in this Master Declaration, Regular and Special Assessments shall be levied at uniform rates for each Lot and Condominium in the Community. Special Benefit Assessments shall be levied equally against all Lots and Condominiums in the respective Special Benefit Area.

Section 13. Certification of Payment. The Master Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Master Association setting forth whether the Assessments on a specified Lot or Condominium have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

Section 14. Delivery by Owner. Each Owner of a Lot or Condominium shall, as soon as practicable prior to the transfer of title to such Lot or Condominium or the execution of an installment sales contract, as defined in California Civil Code Section 2985, as same may be amended from time to time, give to the prospective purchaser a copy of the Master Association Documents, a copy of the most recent financial statements, a true statement, in writing, from the Master Association Board as to the amount of the Master Association's Regular, Special and Special Benefit Assessments, as well as any delinquent Assessments (including late charges, interest, costs of collection and attorney's fees) which are or may be a lien upon the Owner's Lot or Condominium, and any changes in the Master Association's Assessments which have been approved by the Board, but have not become due and payable.

Section 15. Reserves. All amounts collected by the Master Association as reserves shall be deposited by the Board in a separate bank account for the purposes for which they were collected, and are to be segregated from and not commingled with the operating or any other funds of the Master Association. As more fully set forth in Article V above, the Board shall not expend funds designated as reserves for any purposes other than as permitted by Section 1365.5 of the California Civil Code, as same may be amended from time to time.

Section 16. Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessments provided for herein for any reason whatsoever, including, but not limited to, non-use of the Master Association Property or abandonment of his Lot or Condominium, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Master Association.

Section 17. Exempt Property. The following property subject to this Master Declaration shall be exempt from the Assessments herein:

- (a) All property dedicated to and accepted by any Public Agency;
- (b) All property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California. However, no land or Improvements devoted to dwelling use shall be exempt from said Assessment;
- (c) All Master Association Property; and
- (d) All Sub-Association Property owned or controlled by a Sub-Association.

## ARTICLE VII

### NON-PAYMENT OF ASSESSMENTS:

#### REMEDIES OF THE MASTER ASSOCIATION

Section 1. Effect of Non-Payment of Assessments: Remedies of the Master Association. Any installment of a Regular, Special or Special Benefit Assessment, and any Damage Reimbursement or Compliance Assessment not paid within fifteen (15) days after the due date shall be deemed delinquent, and the Owner shall be obligated to pay: (a) reasonable costs of collection, including reasonable attorneys' fees; (b) a reasonable late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), whichever is greater, or as may, from time to time, be established by the Board in accordance with California law; and (c) interest on all sums imposed under this Section at an annual percentage rate not to exceed twelve percent (12%), commencing thirty (30) days after the Assessment was due. The Board, for and on behalf of the Master Association, may commence legal action against the Owner personally obligated to pay the same, or, in the case of a Regular, Special, Special Benefit or Damage Reimbursement Assessment, may foreclose the lien against his Lot or Condominium.



Such lien may also be foreclosed by a power of sale or other nonjudicial procedure provided for by the laws of the State of California. In furtherance thereof, each Owner hereby vests in the Master Association, its successors or assigns, the right and power to bring all actions at law or to pursue lien foreclosure against any Owner for purposes of collecting such delinquent Assessments.

Section 2. Notice of Delinquent Assessments. At least thirty (30) days prior to recording a lien against an Owner's Lot or Condominium to collect a debt that is past due, the Master Association shall notify the Owner of record in writing by certified mail of all of the notices and other information required by California Civil Code Section 1367.1, and otherwise comply with the requirements of said Section. Any payments made by the Owner toward the debt owed shall first be applied to the unpaid Assessments, and only after the unpaid Assessments have been paid in full shall such payments be applied to the fees and costs of collection, attorney's fees, any late charges and interest, if any.

The total amount of unpaid Assessments, plus any costs of collection, late charges and interest assessed in accordance with Section 1366, shall be a lien on the Owner's Lot or Condominium from and after the time the Master Association causes to be recorded with the county recorder for the County in which the Community is located, a notice of delinquent assessment, which shall state the amount of the unpaid Assessments and other sums imposed in accordance with Section 1366, the legal description of the Owner's Lot or Condominium against which the Assessments and other sums are levied, the name of the record Owner of the Lot or Condominium against which the lien is imposed, and in order for the lien to be enforced by nonjudicial foreclosure as provided herein, the name and address of the trustee authorized by the Master Association to enforce the lien by sale. The notice of delinquent assessment shall be signed by the President of the Master Association, and mailed in the manner set forth in Section 2924b, to all record Owners of the Lot or Condominium no later than ten (10) calendar days after recordation. Subject to the limitations in Section 1367.1, after the expiration of thirty (30) days, following the recording of the notice of delinquent assessment, the lien created thereby may be enforced in any manner permitted by law.

Section 3. Foreclosure Sale. Any foreclosure sale provided for above is to be conducted by the Board, its attorney or by the trustee designated in the Notice of Delinquent Assessment or by a trustee substituted by the Board pursuant to Section 2934(a) of the California

Civil Code. Any sale by the trustee shall be conducted in accordance with the provisions of Sections 2924 et seq. of the California Civil Code, as same may be amended from time to time, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Master Association, through duly authorized agents, shall have the power to bid on the Lot or Condominium at a foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Any Owner, by acceptance of a deed for his Lot or Condominium, hereby expressly waives any objection to the enforcement and foreclosure of the lien in this manner.

Section 4. Curing of Default. Upon the timely curing of any default for which a Notice of Delinquent Assessments or lien was filed by the Master Association, the officers thereof are hereby authorized to file or record, as the case may be, an appropriate release of such Notice upon payment by the defaulting Owner of a reasonable fee to be determined by the Master Association to cover the costs of preparing and filing or recording such release.

Section 5. Cumulative Remedies. The Master Association's remedies for nonpayment of Assessments, including, but not limited to, an action to recover a money judgment, Assessment lien and right of foreclosure and sale, are cumulative and in addition to and not in substitution of any other rights and remedies which the Master Association and its assigns may have hereunder or at law. Nothing herein shall prohibit the Master Association from taking a deed in lieu of foreclosure.

Section 6. Mortgage Protection. Notwithstanding any other provisions of this Master Declaration, no lien created hereunder, nor any breach of the terms and provisions of this Master Declaration, nor the enforcement of any term or provision hereof, shall defeat or render invalid the rights of any Mortgagee under any recorded first Mortgage upon a Lot or Condominium made in good faith and for value; provided that after such Mortgagee or other person or entity obtains title to such Lot or Condominium by judicial or nonjudicial foreclosure, such Lot or Condominium shall remain subject to this Master Declaration and the payment of Assessments which become due subsequent to the date of taking title.

Section 7. Priority of the Lien for Assessments Levied by the Master Association. In the event an Owner shall be in arrears in the payment of Assessments levied by the Master Association and shall also be in arrears in the payment of assessments levied by a

Sub-Association for the same period, the lien of the Assessments levied by the Master Association shall be senior to the lien of the assessments levied by such Sub-Association.

## ARTICLE VIII

### USE RESTRICTIONS

Save and except for Declarant (and each Merchant Builder) who shall be exempt from the use restrictions set forth herein, all real property within the Community shall be held, occupied, used and enjoyed, subject to the following use restrictions:

Section 1. Private Single Family Dwelling. Except as provided in the Article herein entitled "Introduction to Woodbury," or as otherwise provided in this Article, each Dwelling shall be used as a private residence for a single family and for no other purpose, except such temporary uses as shall be permitted by Declarant while the Community is being developed and Declarant and/or any Merchant Builder is conducting its marketing and sales program.

Section 2. Use of Master Association Property. Use of the Master Association Property shall be subject to the provisions of this Master Declaration, the Rules and Regulations and to any additional limitations imposed by any of the other Master Association Documents.

Section 3. Conduct Affecting Insurance. No Owner shall keep any materials of any kind or allow any activities to be conducted at his Lot or Condominium or on the Master Association Property or Maintenance Areas which will increase the rate of insurance on the Master Association Property or Maintenance Areas without the approval of the Board. Further, no Owner shall keep any materials of any kind or allow any activities to be conducted at his Lot or Condominium or on the Master Association Property or Maintenance Areas which will result in the cancellation of insurance on the Master Association Property or Maintenance Areas or which would be in violation of any law. If, by reason of the occupancy or use of said premises by the Owner, the rate of insurance on the Master Association Property or Maintenance Areas shall be increased, the Owner shall become personally liable for the additional insurance premiums.

Section 4. Owner's Liability for Damage. Each Owner (and any Sub-Association) shall be liable to the Master Association for any and all costs and expenses which may be incurred by the Master Association to repair any damage to the Master Association

Property and/or Maintenance Areas which may be sustained by reason of the negligence or willful misconduct of said Owner, the members of his family, his tenants, lessees, or their respective guests or invitees, whether minor or adult (or of said Sub-Association). Any such costs and expenses shall be levied by the Board as a Damage Reimbursement Assessment against such Owner (or Sub-Association) in accordance with the provisions of this Master Declaration.

Section 5. Signs. No commercial sign or billboard of any kind shall be displayed to the public view on any portion of the Community, except such signs as may be used by Declarant (or by a Merchant Builder with Declarant's consent) in connection with the development of the Community and sale or lease of Lots and/or Condominiums, or by the Owner of an Apartment Area in connection with the rental or lease of Apartments. Declarant and each Merchant Builder shall repair any damage to or complete any restoration of the Master Association Property caused or necessitated by the display of signs by Declarant or the Merchant Builders within a reasonable time after the occurrence of such damage or need for restoration. Any Owner may display on his Lot or Condominium or on real property owned by others with their consent, or both, (i) the flag of the United States displayed in accordance with Section 1353.5 of the California Civil Code; (ii) noncommercial signs, posters, flags or banners displayed in accordance with Section 1353.6 of the California Civil Code; and (iii) signs advertising the Owners Lot or Condominium for sale, lease or exchange, or to advertise directions to the property or the Owner's or agent's address and telephone number in accordance with California Civil Code Section 712. As provided in said Section 712 of the California Civil Code, a sign which conforms to an ordinance adopted in conformity with Section 713 of the California Civil Code shall be deemed to be of reasonable dimension and design. All signs must be reasonably located and of reasonable dimensions and design. No sign shall be allowed that will adversely affect public health and safety, including traffic safety. In all events, all signs permitted under this Section shall comply with applicable City ordinances as well as state and federal law.

Section 6. Maintenance of Animals Within the Community. An Owner may keep within his respective Lot or Condominium: (i) common domesticated household animals (e.g., dogs, cats, birds or fish), or (ii) subject to prior Board approval as provided herein, an "exotic animal". Any Owner desiring to keep an "exotic animal" within his Lot or Condominium shall make prior application to the Board for permission to keep an exotic animal.

As used herein, an "exotic animal" shall mean any type of snake or reptile which can grow to a length longer than two feet, any form of livestock, any type of spider, any animal which is poisonous or which would pose a risk of harm to any person or to a common domesticated household animal if such exotic animal escaped from its respective Lot or Condominium, or any other animal (other than a common domesticated household animal) which is designated by the Board, from time to time, as constituting an exotic animal. The Board shall hold a hearing on such application and shall give at least five (5) days prior written notice of such hearing to the applicant, to the applicant's adjoining Owners and to such other Owners within the Community as the Board may deem appropriate. The Board may, in its sole and absolute discretion, approve or disapprove such application, and may also impose such conditions upon the right to keep an exotic animal as the Board may deem appropriate, including, without limitation, requiring the Owner to construct a secure enclosure to prevent the animal from escaping, to give written notice to other Owners of the presence of such exotic animal, to obtain additional liability insurance, to reimburse the Master Association for any costs incurred by the Master Association as the result of the animal escaping, etc. In all cases, animals may only be kept in accordance with applicable City ordinances and codes, and may not be kept, bred or maintained for any commercial purpose or in unreasonable numbers as determined by the Board, from time to time. Each Owner shall be responsible for cleaning up any excrement or other unclean or unsanitary condition caused by his animal(s) anywhere within the Community. All animals must be kept either within an appropriate enclosure, or the yard or patio, or on a leash held by a person capable of controlling the animal. Upon the approval of a majority of a quorum of the Board, the Board shall have the right to prohibit maintenance of any animal within the Community (including any common domesticated household animal or any previously approved exotic animal) which, in the opinion of the Board, constitutes a nuisance to any other person. Every person keeping an animal within or bringing an animal into the Community shall be liable pursuant to the laws of the State of California to any and all persons for any injury to persons or damage to property caused by such animal. Notwithstanding the foregoing, nothing in this Section shall be interpreted or construed to limit the right of the Owner of an Apartment Area to adopt restrictions on the maintenance of animals within the Apartments which are more restrictive than the provisions of this Section.

Section 7. Quiet Enjoyment. No Owner shall permit or allow any activity to be performed or any material of any kind to be kept within or upon his Lot or Condominium

which will obstruct or interfere with the rights of quiet enjoyment of the other occupants in the Community, or annoy them by unreasonable noises or otherwise, nor will any Owner commit or permit any nuisance on his Lot or Condominium. Without limiting the generality of the foregoing, no noisy pets (e.g., barking dogs, squawking birds, etc.), drums or other loud musical instruments, exterior horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off-road motor vehicles or electronic equipment or other items which may unreasonably interfere with the television or radio reception shall be located, used or placed on any portion of the Community, or exposed to the view of other Owners. No noxious odors shall be permitted to emanate from the Community. The Board shall have the right to determine in accordance with the provisions for Notice and Hearing set forth in the Bylaws if any noise, odor, interference or activity producing such noise, odor or interference constitutes a nuisance. Each Owner shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to his Lot or Condominium. All clotheslines, refuse containers, woodpiles, storage boxes, tools and equipment shall be prohibited on any Lot or Condominium unless obscured from view by a fence or appropriate screen approved by the Design Review Committee provided for hereinbelow.

Section 8.      Improvements. No Improvement shall be constructed, altered or removed (other than those repairs or rebuilding permitted under the Article entitled "Damage or Destruction of Improvements Maintained By the Master Association") without the approval by the Design Review Committee as set forth hereinbelow except those Improvements which are constructed by Declarant and/or a Merchant Builder during the development of the Community.

Section 9.      Windows. No window in any Dwelling shall be covered in whole or in part, inside or outside, with aluminum foil, newspaper, paint, reflective tint or any other material reasonably deemed inappropriate for such use by the Board; provided, however, an Owner may use plain white sheets to cover windows for a period of time not to exceed six (6) months after the Close of Escrow or occupancy of the Dwelling, pending the installation of drapes, curtains, shutters or other appropriate interior window coverings.

Section 10.      Commercial Activity. No Dwelling shall be used in any way, directly or indirectly, for any business, commercial, mercantile, manufacturing, storage or other nonresidential purposes, except for the right of Declarant (and each Merchant Builder) to use any portion of the Community for model homes, sales and leasing offices and displays and other

promotional events in accordance with the provisions of this Master Declaration. Notwithstanding the foregoing, the provisions of this Section shall not preclude any Owner of a Lot or Condominium in the Community from maintaining any business permitted by law (e.g., a family day care center) or from using his Dwelling as a home-office and conducting business activities therefrom, provided such business activities are in compliance with the following: (i) there is no external evidence of such activities; (ii) such activities are conducted in conformance with all applicable government ordinances; (iii) the patrons or clientele of such activities do not visit the Lot or Condominium or park automobiles or other vehicles within the Community; (iv) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Lot or Condominium; (v) no such activity increases the liability or casualty insurance obligation or premium of the Declarant, any Merchant Builder and/or the Master Association; and (vi) such activities are consistent with the residential character of the Community and conform with the provisions of this Master Declaration.

Section 11. Parking. All vehicles in the Community shall be parked in accordance with the following:

(a) Restrictions Regarding Private Streets. The streets within the Community are mostly public streets, however, certain streets within the Community (e.g., streets within a portion of the Community consisting of a Condominium Project) may be private. Curbside parking along the public streets shall be subject to the restrictions and limitations imposed by the City or other applicable Public Agency. Parking along any private street will be subject to further restrictions and limitations. In no event will parking be permitted along any portion of any street designated as a "Fire Lane" by the City or the Orange County Fire Authority. The fire lanes and other no parking areas within this first Phase and all subsequent Phases of the Community are generally depicted on an exhibit on file with the property manager for the Community. The Master Association may adopt reasonable Rules and Regulations regarding the parking of vehicles within the Community which are not in conflict with applicable law. In furtherance thereof, the Master Association, through its officers, committees and agents, may establish "parking" and "no parking" areas within the Master Association Property in accordance with Section 22658.2 of the California Vehicle Code, as same may be amended from time to time,

provided however, parking shall never be permitted in a fire lane. The Master Association shall enforce such Rules and Regulations by all lawful means, including the levying of fines, citing and towing of any violating vehicle. The Master Association shall contract with a towing company to remove vehicles that violate the no parking restrictions and shall provide all Owners with a telephone number to report violations. First time violators will receive a written warning. If a vehicle violates the parking restrictions after having received a warning, such vehicle shall be subject to towing. The owner of such vehicle shall be responsible for all costs incurred to remedy the violation, including, but not limited to, towing costs, citations and legal fees. The Master Association, any Sub-Association and any Owner may not modify any street (e.g., install speed bumps, control gates, or change the parking provisions set forth herein) without first obtaining the express written approval of the City, the Orange County Fire Authority and any other affected Public Agency.

(b) Recreational Vehicles. Unless approved by the Design Review Committee, no Owner shall park, store or keep on any portion of the Master Association Property, on his Lot or Condominium or on any private street within the Community: (1) any large commercial type vehicle; (2) any recreational vehicle (including, but not limited to, campers, motor homes, trailers, boats, aircraft, mobile homes or other similar vehicles); or (3) any oversized vehicle (i.e., a vehicle that exceeds seven feet (7') in height, seven feet (7') in width and nineteen feet (19') in length [e.g., a limousine]), except for purposes of loading, unloading, making deliveries or performing emergency repairs.

(c) Standard Passenger Vehicles. An Owner may park any standard passenger automobile (including sports utility vehicles, vans, pick up trucks and similar vehicles up to and including one [1] ton when used for everyday transportation) within his respective garage, on the side of the street if permissible, or on his driveway; provided, however, in no event shall any vehicle extend into a sidewalk or beyond the curbline, or impede access over any street.

(d) Storage of Goods in Garages. Each Owner shall keep his garage readily available for parking of permitted vehicles and shall not store any goods or materials therein, nor use any portion of the garage for a workshop or other use if



such storage or use would prevent said Owner from parking the number of vehicles therein for which said garage was originally designed and constructed by Declarant or Merchant Builder. The Master Association shall have the right to inspect an Owner's garage to verify compliance with the forgoing restrictions.

(e) Repairs. No Owner shall conduct major repairs to any vehicle of any kind whatsoever upon the Master Association Property on his Lot or Condominium, on any street or elsewhere within the Community, except for emergency repairs thereto and then only to the extent necessary to enable the vehicle to be moved to a proper repair facility.

(f) Garage Doors. All garage doors shall remain closed at all times, except as reasonably required for entry to and exit from the garage.

(g) City Approval of Parking Restrictions Along the Public Streets. Notwithstanding any other provisions of this Section 11, subject to the prior written approval of the City, the Master Association may adopt additional restrictions regarding the parking of vehicles (including, but not limited to, recreational vehicles and commercial vehicles) along the public streets in the Community.

Section 12. Vehicle Usage in the Master Association Property. Except for the private streets and any other areas expressly authorized and regulated by the Master Association for vehicular use, no vehicles of any kind shall be operated, maintained, repaired or otherwise used on, over or across the Master Association Property.

Section 13. Unrestricted Parking. Subject to the provisions of this Master Declaration and the Rules and Regulations of the Master Association, any parking spaces within the Master Association Property (e.g., parking at a park or curbside parking along a street) shall be available on a first-come, first-served basis.

Section 14. Compliance With Master Association Documents. All Owners shall comply with all of the Protective Covenants and other terms and provisions set forth in the Master Association Documents. No Owner shall transfer any membership or interest in the Master Association, except upon the transfer of the Lot or Condominium to which it is appurtenant.

Section 15. Solar Heating Systems. An Owner may install solar heating systems for his Lot or Condominium to heat swimming pools, spas and water heaters. Such

systems must comply with applicable zoning regulations, with the Uniform Building Code and all City ordinances and must be approved by the Design Review Committee based upon reasonable architectural review standards adopted by the Design Review Committee consistent with Section 714 of the California Civil Code, as same may be amended from time to time.

Section 16. Antennas. No radio station or shortwave operators of any kind shall operate from any Lot or Condominium or any other portion of the Community, and no exterior radio antenna, "Citizens Band" ("C.B.") antenna, ham radio or other similar radio receiving or broadcasting device of any type shall be erected or maintained in the Community. Additionally, no video or television antenna including a satellite dish, that has a diameter or diagonal measurement of more than one (1) meter shall be installed or maintained in the Community. Any Owner who desires to install a video or television antenna having a diameter or diagonal measurement of one (1) meter or less shall comply with the following reasonable restrictions: (1) apply to and obtain approval for the installation of such antenna from the Design Review Committee; (2) agree to maintain, repair or replace any roof or other Improvements affected by the installation, maintenance or use of such antenna, if required by the Design Review Committee; and (3) agree to indemnify and/or reimburse the Master Association (or any Sub-Association) for any loss or damage caused by the installation, maintenance or use of such antenna. To the extent permitted by law, the Design Review Committee may require a video or television antenna having a diameter or diagonal measurement of one (1) meter or less to be reasonably screened from view of any street and the Master Association Property (or Sub-Association Property), as the case may be, provided such requirement does not significantly increase the cost of the video or television antenna system (including all related equipment), and does not significantly decrease its efficiency or performance. Notwithstanding the foregoing, all restrictions on video or television antennas (including satellite dishes) shall be subject to all applicable federal, state and local laws, including, but not limited to, the Federal Telecommunications Act of 1996.

Section 17. Hazardous Materials. No hazardous waste, substance or material (as defined in any federal, state or local law, ordinance or regulation) shall be stored or permitted upon any portion of the Community, except in compliance with all applicable laws, ordinances and regulations of all applicable Public Agencies. Without limiting the generality of the foregoing, the Community is subject to all federal, state and local requirements of the National

Pollutant Discharge Elimination System ("NPDES") adopted pursuant to the Federal Clean Water Act. In accordance therewith, the Master Association, any Sub-Association, all Owners and any other residents within the Community may not dispose of any hazardous waste, substance or material into any storm drain or other drainage device located anywhere within the Community in violation of NPDES, the WQMP or any applicable laws, ordinances or regulations.

Section 18. Leasing. Except as otherwise provided in the Article herein entitled "Apartment Areas," no Owner may rent or lease less than his entire Lot or Condominium. Further, no Owner shall be permitted to rent or lease his Lot or Condominium for transient or hotel purposes or for a period of less than thirty (30) days. All rental and lease agreements shall be in writing and shall provide that the terms of such agreement shall be subject in all respects to the provisions of the Master Association Documents, and that any failure by the tenant or lessee to comply with the terms of the Master Association Documents shall constitute a default under such agreement.

Section 19. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted within the Community, nor shall oil wells, tanks, tunnels or mineral excavations be permitted upon or within the Community. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted upon the surface of any portion of the Community.

Section 20. Trash. No rubbish, trash, garbage, waste or recyclable matter shall be kept or permitted upon any portion of the Community, except in sanitary containers located in appropriate areas screened and concealed from view. Each Owner shall place all rubbish, trash, garbage, waste and recyclable material in closed containers approved by the applicable Public Agency. No Owner shall permit any odor to arise therefrom so as to render any Lot or Condominium unsanitary, unsightly, offensive or detrimental to any other Lot or Condominium in the vicinity thereof or to its occupants. Such containers shall be exposed to the view of neighboring Lots or Condominiums only when set out for a reasonable period of time (not to exceed twelve [12] hours before and after scheduled trash collection hours). If trash bins are located in the trash areas in the Master Association Property, all Owners shall utilize such trash bins for the disposal of their trash. Outdoor fires are expressly prohibited, except in appropriate barbecues or in fire rings approved by the City and the Design Review Committee.

Section 21. Water Softeners. No water softener system of any kind shall be

permitted on any Lot or Condominium, unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of all Public Agencies and the Design Review Committee.

Section 22. Sub-Association Use Restrictions. Nothing herein shall prevent any Sub-Association from adopting use restrictions for those portions of the Community within its jurisdiction which are more restrictive than those use restrictions set forth herein; provided however, such restrictions shall in no way modify the provisions of this Article. In the event of a conflict between any use restrictions set forth in a Supplemental Declaration and the use restrictions set forth herein, the use restrictions set forth herein shall control.

Section 23. Mandatory Landscaping. Unless installed by Declarant or a Merchant Builder, within two hundred seventy (270) days from the Close of Escrow for the purchase of a Lot or Condominium in the Community, the Owner of such Lot or Condominium shall, at such Owner's own cost and expense, cause his front yard (including the exposed side yard in the case of a corner Lot or Condominium) and the rear yard to be fully landscaped in accordance with the plans and specifications approved by the Design Review Committee. All landscaping and other Improvements shall comply with the provisions of the Design Guidelines. Except for any landscaping to be maintained by the Master Association or a Sub-Association, the Owner of such Lot or Condominium shall maintain such landscaping in a neat, clean, safe, sanitary, healthy and attractive condition at all times in accordance with the provisions of the Article herein entitled "Repair and Maintenance."

Section 24. Compliance with the Best Management Practices. The Master Association, any Sub-Association and each Owner, as the case may be, shall maintain its respective structural Best Management Practices and shall perform its respective non-structural Best Management Practices to the extent applicable to their respective property (e.g., Master Association Property, Maintenance Area, Sub-Association Property and/or Lot or Condominium).

**ARTICLE IX  
DESIGN REVIEW**

**Section 1. Exemptions From Design Review.** Declarant and each

Merchant Builder shall be exempt from and shall not be obligated to comply with: (i) any of the design review provisions set forth herein; and (ii) any design review provisions of any kind whatsoever which may be adopted by the Board, or by the Delegates of the Master Association. The provisions of this Article may not be amended without the prior express written consent of Declarant so long as Declarant or any Merchant Builder is offering any Lots or Condominiums for sale or lease, or so long as Declarant or any Merchant Builder owns any portion of the Annexable Property and such property may be annexed into the Community in accordance with the Article herein entitled "Annexation of Additional Property."

**Section 2. Design Review by the Sub-Associations.** Except for purposes of

proper maintenance and repair, and except as otherwise permitted hereunder, any Owner whose Lot or Condominium is subject to a Sub-Association may not build, construct, erect, plant or otherwise install any Improvements of any kind without first: (i) submitting plans and specifications for the proposed Improvements to the Sub-Association's design review committee for review and approval; (ii) obtaining the express written approval of such plans and specifications by the Sub-Association's design review committee; (iii) submitting the plans and specifications approved by the Sub-Association's design review committee to the City and all other affected Public Agencies to obtain all necessary approvals and permits; and (iv) thereafter complying with the provisions of this Article and with any requirements imposed by the City and any other affected Public Agency. In furtherance of the foregoing, no grading, excavation, demolition, construction, installation, alteration, addition, modification, or reconstruction of any Improvement shall be commenced or otherwise maintained by the Owner until the plans and specifications showing the nature, kind, shape, height, width, color, materials and location of the proposed Improvements, and any other information required by the committee, have been submitted to the Sub-Association's design review committee and approved in writing by such committee. Until receipt by the Sub-Association's design review committee of the required plans and specifications, and such other information as may be required by the committee, the committee may postpone review of any plans submitted for approval. The review and approval of the plans and specifications for the proposed Improvements shall be conducted solely by the

Sub-Association's design review committee as provided herein, and the committee shall base its decision upon the consistency of the proposed improvements with the requirements of the Master Association's Design Guidelines. In the event the Design Guidelines do not specifically address the proposed improvements, the Sub-Association's design review committee shall apply the Design Guidelines in the manner which is most consistent with the original architectural and landscaping character established by the Merchant Builder so as to preserve aesthetic harmony between the proposed improvements and the existing improvements within the Sub-Association. In no event may the Sub-Association's design review committee modify, amend, deviate from or otherwise fail to implement the provisions of the Design Guidelines. A Sub-Association's design review committee may obtain a clarification of the Design Guidelines from the Master Association's Board of Directors. The decisions of the Sub-Association's design review committee may be appealed to the board of directors of the Sub-Association in accordance with the provisions of the Sub-Association Documents.

Section 3. Design Review by the Design Review Committee. Except for purposes of proper maintenance and repair, and except as otherwise provided in this Master Declaration, an Owner whose Lot or Condominium is not subject to a Sub-Association may not build, construct, erect, plant or otherwise install any improvements of any kind without first: (i) submitting plans and specifications for the proposed improvements to the Design Review Committee for review and approval; (ii) obtaining the express written approval of such plans and specifications by the Design Review Committee; (iii) submitting the plans and specifications to approved by the Design Review Committee to the City and all other affected Public Agencies to obtain all necessary approvals and permits; and (iv) thereafter complying with the provisions of this Article and with any requirements imposed by the City and any other affected Public Agency. In furtherance of the foregoing, no grading, excavation, demolition, construction, installation, alteration, addition, modification, or reconstruction of any improvement shall be commenced or otherwise maintained by the Owner until the plans and specifications showing the nature, kind, shape, height, width, color, materials and location of the proposed improvements, and any other information required by the Design Review Committee, have been submitted to the Design Review Committee and approved in writing by the Committee. Until receipt by the Design Review Committee of the required plans and specifications, and such other information as may be required by the Committee, the Committee may postpone review of any plans

submitted for approval. The review and approval of proposed improvements shall be conducted solely by the Design Review Committee as provided herein. The Design Review Committee shall base its decision upon the consistency of the proposed improvements with the requirements of the Design Guidelines. In the event the Design Guidelines do not specifically address the proposed improvements, the Design Review Committee shall apply the Design Guidelines in the manner which is most consistent with the original architectural and landscaping character established by the Merchant Builder so as to preserve aesthetic harmony between the proposed improvements and the existing improvements. The Design Review Committee may not deviate from or otherwise fail to implement the provisions of the Design Guidelines. The Design Guidelines may only be amended as provided herein.

Section 4. Design Review Committee. The Design Review Committee is

hereby authorized with the rights and powers set forth in this Article. Said Committee shall consist of not less than three (3) members, nor more than five (5) members, and each initial member shall serve until the first election of the Board. In the event of the failure or inability of any member of the Design Review Committee to act, the remaining members shall designate a successor who shall serve for the remainder of the term of the member he replaces. The Declarant shall appoint all of the original members of the Design Review Committee, and replacements thereto. Further, Declarant reserves the right to appoint a majority of the members of the Design Review Committee until the first to occur of the following: (i) ninety percent (90%) of the estimated total number of Dwellings proposed for the overall Community (excluding Apartments) (i.e., approximately two thousand two hundred twenty five [2,225] Dwellings x 90% equals approximately two thousand two [2,002] Dwellings) have been conveyed to an Owner; or (ii) the fifth anniversary of the first Close of Escrow for the sale of a Lot or Condominium pursuant to the original issuance by the DKE of the most recently issued Final Subdivision Public Report for a Phase of the Community (hereinafter referred to as the "Turnover Date"). After one (1) year from the date of the first Close of Escrow for the sale of a Lot or Condominium in the first Phase of the Community, the Member(s) of the Board who were elected by Delegates representing Members other than the Declarant and the Merchant Builders shall have the power to appoint one (1) member to the Design Review Committee until the Turnover Date. From and after the Turnover Date, the Board shall have the power to appoint all but one of the members of the Design Review Committee, and the Declarant reserves the right to

appoint the remaining member of the Committee until such time as development of the Community has been completed. All members appointed to the Design Review Committee by the Board shall be from the membership of the Master Association. Members appointed to the Design Review Committee by the Declarant, however, need not be members of the Master Association. No member of the Design Review Committee shall be liable to any person for his decisions or failure to act in making decisions as a member of the Design Review Committee. Declarant may, in its discretion and at any time, assign to the Master Association by written assignment its powers of removal and appointment with respect to the Design Review Committee, subject to such terms and conditions regarding the exercise thereof as Declarant may impose.

Section 5. Meetings of the Design Review Committee. The Design Review Committee shall meet, from time to time, as necessary to perform its duties hereunder. The Design Review Committee may, by a majority vote of the members thereof, delegate any of its rights and responsibilities hereunder to one (1) or more qualified professionals (e.g., a planner or architect) who shall have full authority to act on behalf of the Design Review Committee on all matters so delegated.

Section 6. Design Guidelines. The Design Review Committee and each Sub-Association's design review committee shall use the Design Guidelines as the basis for reviewing plans and specifications for proposed improvements to an Owner's Lot or Condominium. The Design Guidelines may be amended, from time to time, by a majority of a quorum of the Board. Additionally, a majority of the Board may, from time to time, adopt Rules and Regulations to supplement the Design Guidelines. The Design Guidelines may include, without limitation, procedures, policies, limitations and restrictions regarding the following:

(a) The reconstruction, addition, change or alteration of any improvement to a Lot or Condominium, including the nature, kind, shape, size, materials, exterior color, location and height of any improvement;

(b) A description of any type of construction, addition, change or alteration which, if completed in conformity with the Design Guidelines does not require approval of the Design Review Committee or of the Sub-Association's design review committee;



(c) Conformity of completed Improvements with the plans and specifications approved by the Design Review Committee or by the Sub-Association's design review committee;

(d) Time limitations for the completion of the improvements;

(e) Procedures for submission of plans and specifications, including, without limitation, floor plans, site plans, drainage plans, elevation drawings, landscape plans and a description or samples of exterior colors and materials;

(f) Approved landscape palettes;

(g) Restrictions controlling the species and placement of any trees, plants, shrubbery, ground cover, etc., to be placed, planted, irrigated and maintained in the Community (including requirements regarding the use of root barriers and/or other similar devices to prevent damage to hardscape and other improvements constructed or installed on a Lot or Condominium or other portion of the Community);

(h) Applicable setbacks, height and coverage limitations for accessory structures, including, but not limited to, patio covers, gazebos, pools, spas, decks, guest houses, etc.);

(i) A reasonable schedule of fees for submission of plans and specifications and bonds (or cash deposits) to ensure proper completion of the anticipated work, clean-up and compliance with the approved plans; and

(j) Any special design requirements and/or standards established by Declarant or a Merchant Builder that shall be applicable solely to a specific Sub-Association within the Community.

The Design Review Committee and each Sub-Association's design review committee shall maintain a copy of the then current Design Guidelines on file at all times, and shall provide each Owner with a copy of the Design Guidelines upon written request. The Board shall establish a reasonable fee for copies of the Design Guidelines, and other related materials, to cover costs of reproduction, administration and handling.

Section 7. Review of Plans and Specifications.

(a) Review of Plans and Specifications by a Sub-Association's Design Review Committee. The plans and specifications for proposed Improvements

to a Lot or Condominium which is subject to a Sub-Association shall be reviewed by the Sub-Association's design review committee in accordance with the procedures set forth in the Supplemental Declaration recorded for such Sub-Association. A Sub-Association's design review committee shall approve the plans and specifications submitted for its review and approval only if it determines that: (a) the proposed improvements are in substantial compliance with the Design Guidelines; (b) the construction, alterations or additions contemplated thereby and the locations indicated will not be detrimental to the appearance of the surrounding area of the Community as a whole; (c) the appearance of any structure affected thereby will be in harmony with surrounding structures; (d) the construction thereof will not detract from the enjoyment of any Sub-Association Property; and (e) the upkeep and maintenance thereof will not become a burden on the Sub-Association. In addition to the foregoing, approval of the plans and specifications may be based upon, among other things, scale of site dimensions; conformity and harmony of external design with neighboring improvements; affect of location and use of improvements (including landscaping) on neighboring Lots and/or Condominiums; relation of topography, grade and finish elevation of the Lot or Condominium being improved to that of the neighboring Lots or Condominiums; proper facing of all elevations; consideration of aesthetic beauty; and conformity of the plans and specifications to the purpose and general plan and intent of the Protective Covenants of this Master Declaration. The approval of plans and specifications for any proposed improvements may be withheld because of noncompliance with any of the specific Protective Covenants set forth in this Master Declaration; because of the dissatisfaction of the Sub-Association's design review committee with the proposed nature, kind, plan, design, shape, height, dimensions, proportions, architectural style, color, finish or materials to be used therein, the pitch or (type of any proposed roof, or the size, type or location of any proposed trees or the landscaping to be planted on a Lot or Condominium; or because of the dissatisfaction with any other aspect of the proposed improvement which could cause the proposed improvement to be inappropriate, inharmonious or out of keeping with the general plan of improvement for the Community, or with the improvements on or topography of the surrounding

property. The approval of plans and specifications may be conditioned upon: (a) appropriate changes in the plans and specifications as the Sub-Association's design review committee deems appropriate; or (b) such other matters as the committee deems appropriate.

(b) Review of Plans and Specifications by the Design Review Committee. The plans and specifications for proposed Improvements to a Lot which

is not subject to a Sub-Association shall be reviewed by the Design Review Committee in accordance with the procedures set forth herein. The Design Review Committee shall consider and act upon plans and specifications submitted for its approval pursuant to this Master Declaration, and shall perform such other duties as may, from time to time, be assigned to it by the Board, including the inspection of construction and progress to ensure its conformance with the plans approved by the Design Review Committee. The initial address for submission of such plans and specifications to the Design Review Committee, until changed by the Design Review Committee, shall be:

Woodbury Community Association  
c/o Professional Community Management  
23726 Bircher Drive  
Lake Forest, CA 92630

The Design Review Committee shall approve the plans and specifications submitted for its review and approval only if it determines that: (a) the proposed Improvements are in substantial compliance with the Design Guidelines; (b) the construction, alterations or additions contemplated thereby and the locations indicated will not be detrimental to the appearance of the surrounding area of the Community as a whole; (c) the appearance of any structure affected thereby will be in harmony with surrounding structures; (d) the construction thereof will not detract from the enjoyment of the Master Association Property; and (e) the upkeep and maintenance thereof will not become a burden on the Master Association. In addition to the foregoing, approval of the plans and specifications may be based upon, among other things, scale of site dimensions; conformity and harmony of external design with

neighboring improvements; affect of location and use of improvements (including landscaping) on neighboring Lots and/or Condominiums; relation of topography, grade and finish grade elevation of the Lot or Condominium being improved to that of the neighboring Lots or Condominiums; proper facing of all elevations; consideration of aesthetic beauty; and conformity of the plans and specifications to the purpose and general plan and intent of the Protective Covenants of this Master Declaration. The approval of plans and specifications for any proposed improvements may be withheld because of noncompliance with any of the specific Protective Covenants set forth in this Master Declaration; because of the dissatisfaction of the Design Review Committee with the proposed nature, kind, plan, design, shape, height, dimensions, proportions, architectural style, color, finish or materials to be used therein, the pitch or type of any proposed roof, or the size, type or location of any proposed trees or the landscaping to be planted on a Lot or Condominium; or because of the dissatisfaction with any other aspect of the proposed improvement which could cause the proposed improvement to be inappropriate, inharmonious or out of keeping with the general plan of improvement for the Community, or with the improvements on or topography of the surrounding property. The approval of plans and specifications may be conditioned upon: (a) appropriate changes in the plans and specifications as the Design Review Committee deems appropriate; or (b) such other matters as the Design Review Committee deems appropriate.

Section 8. Decisions of the Design Review Committee. Decisions of the Design Review Committee and the reasons therefore should be transmitted by the Design Review Committee to the applicant, at the address set forth in the application for approval within forty five (45) days after receipt by the Design Review Committee of all plans, specifications and materials required. Any application submitted to the Design Review Committee pursuant to the provisions of this Article shall be deemed approved, unless written disapproval or a request for additional information or materials by the Design Review Committee is transmitted by the Committee to the applicant within forty five (45) days after the receipt by the Committee of the application.

Section 9. Submittal to City - Right of Design Review Committee to

Review. Upon obtaining the written approval of the Design Review Committee, the Owner shall thereafter submit the approved plans and specifications to the City and any other affected Public Agency. In the event that all necessary approvals of the City for the issuance of a building permit or other permits required to commence the work contemplated in the plans and specifications are not obtained within six (6) months from the date of approval by the Design Review Committee, the Design Review Committee shall have the right, but not the obligation, to re-review all previously approved plans and specifications. In addition, in the event that the City requires modifications to the plans and specifications previously approved by the Design Review Committee, the Owner shall submit to the Design Review Committee all modifications to the plans and specifications previously approved by the Design Review Committee. In the event the Owner is obligated to resubmit plans and specifications to the Design Review Committee to reflect the modifications required by the City, said Committee shall have the right to review and to impose further conditions on any such modifications which are not inconsistent with the requirements imposed by the City.

Section 10. Approval of City. Approval of any proposed or completed improvement by the Design Review Committee (or the Board upon appeal thereto) shall not be construed to warrant or represent in any way that the improvement was approved by or complies with the ordinances, codes and policies of the City. Similarly, approval of any proposed or completed improvement by the City shall not be construed to constitute approval of such improvement by the Design Review Committee or the Board.

Section 11. Conflicts Between the City and Design Review Committee. In the event of a conflict between the conditions of approval for any proposed improvement imposed by the City and the Design Review Committee, the more restrictive of such conditions shall be controlling. Nothing herein shall limit the Design Review Committee from imposing conditions of approval for any proposed improvement which are more restrictive than the conditions imposed by the City.

Section 12. No Waiver of Future Approvals. The approval by the Design Review Committee of any submissions for any work done, or proposed to be done, or in connection with any other matter requiring the approval or consent of the Design Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval or

consent to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

Section 13. Compensation of Members. The members of the Design Review Committee shall receive no compensation for services rendered, other than reimbursement by the Master Association for expenses incurred in the performance of such members' duties hereunder. This Section shall not be interpreted or construed to prohibit the Master Association from compensating any qualified professional who has been delegated rights and duties as provided in this Article.

Section 14. Variances. Where circumstances such as topography, location of buildings, location of landscaping or other matters require, the Design Review Committee, by the vote or written assent of a majority of the members thereof, may grant reasonable variances as to any of the Protective Covenants contained in this Master Declaration or as to any of the provisions of the Design Guidelines as it shall require. The granting of such a variance shall not operate to waive any of the Protective Covenants of this Master Declaration for any purpose, except as to the particular Lot or Condominium and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, codes and regulations affecting the Owner's use of his Lot or Condominium, including, but not limited to, zoning ordinances, setbacks and other requirements imposed by the City or other Public Agency. A Sub-Association's design review committee may not grant any variances as to any of the Protective Covenants contained in this Master Declaration nor as to any of the provisions of the Design Guidelines.

Section 15. Inspection of Work. Upon consent of the Owner, which consent shall not be unreasonably withheld, any member or authorized representative of the Design Review Committee may, at any reasonable hour and upon reasonable notice, enter and inspect any improvement which has been the subject matter of an approval by the Design Review Committee. Upon completion of an improvement, the Owner shall submit a written Notice of Completion to the Committee. The Committee's right to inspect the completed improvement shall terminate sixty (60) days after receipt of such Notice. If the Design Review Committee finds that such work was not completed in substantial compliance with the approved plans and specifications, it shall notify the Owner in writing of such noncompliance, specifying the particulars of noncompliance and shall require the Owner to remedy the same within thirty (30)

days from the date of notification of such noncompliance. If the noncompliance is not cured within such thirty (30) day period, the Board, after Notice and Hearing, may levy a Compliance Assessment against such Owner for the costs of removing or remedying such noncompliance.

Section 16. Non-Liability of Design Review Committee Members. The

Declarant, the Merchant Builders, the Master Association, the Board and the Design Review Committee, and their respective directors, officers, employees, members and agents shall not be liable for damages to any Owner submitting plans and specifications for approval, or to any Owner in the Community by reason of mistake in judgment, negligence or nonfeasance, unless due to willful misconduct or bad faith of the Design Review Committee. The Design Review Committee's approval or disapproval of a submission shall be based solely on the considerations set forth in this Article, and in such Rules and Regulations as may be promulgated by the Design Review Committee, and the Design Review Committee shall not be responsible for reviewing nor shall its approval of any plan or design be deemed approval of any plans or design from the standpoint of structural safety and conformance with building or other codes.

Section 17. Appeal. In the event plans and specifications submitted to the

Design Review Committee are disapproved, the party making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the date the Design Review Committee rendered its final decision disapproving such plans and specifications. The Board shall submit such request to the Design Review Committee for review, and the written recommendations of the Design Review Committee will be submitted to the Board. Within forty five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure by the Board to render a decision within said forty five (45) day period shall be deemed a decision in favor of the party making such submission.

Section 18. Prohibited Improvements and Activities.

(a) Master Association Walls. No Owner or Sub-Association shall

modify or otherwise alter any Master Association Walls originally constructed by Declarant or a Merchant Builder. Similarly, no Owner or Sub-Association shall modify or otherwise alter any Sub-Association Walls originally constructed by Declarant or a Merchant Builder as generally shown and depicted on an exhibit attached to a Supplemental Declaration or to a Declaration of Annexation recorded on

a Phase of the Community. Notwithstanding the foregoing, in the event the Design Review Committee (or a Sub-Association's design review committee) determines that it is reasonably necessary for an Owner to temporarily remove a Master Association Wall (or a Sub-Association Wall) in order to install a pool, spa or other similar improvement in his rear yard, the Design Review Committee (or Sub-Association design review committee) may approve such temporary removal subject to the following conditions: (i) the Owner, at his sole cost, shall reconstruct such Wall with the same types of materials as originally used by Declarant or the Merchant Builder and restore any damaged Master Association Property (or Sub-Association Property) to substantially the same condition as existed prior to such work; (ii) if applicable, the Owner shall re-stucco and/or repaint extended portions of the Wall as reasonably necessary to avoid a patched appearance; and (iii) the Owner obtains all other approvals and permits as provided in this Article.

(b) Street Modifications. No Owner or Sub-Association shall build, construct, erect or install any improvement of any kind whatsoever (including, but not limited to, speed bumps, entry gates, etc.) which may obstruct access over any street within the Community without the prior express written consent of the City and the Orange County Fire Authority.

(c) Setbacks for Accessory Structures. No Owner shall build, construct or install any accessory structure (including, but not limited to, patio cover, gazebo, pool, spa, deck, guest house, etc.) on his Lot or Condominium which does not comply with the setback, height, coverage and other restrictions set forth in the Design Guidelines.

(d) Prevention of Erosion of Slopes. No Owner or Sub-Association shall permit any act to be performed within the Community which would result in erosion of any slope, including, but not limited to, failing to maintain proper drainage on a Lot or Condominium (including, without limitation, failing to maintain any yard drain or other drainage device in proper operating condition at all times), over irrigating the slope or otherwise discharging excess water over the slope. If an Owner or Sub-Association permits any act to be performed which results in the erosion of or other damage to such slope, said Owner or Sub-Association shall be liable for all



damages resulting therefrom, and if such slope is part of the Master Association Property, said Owner or Sub-Association shall be liable to the Master Association for such damage and a Damage Reimbursement Assessment shall be levied against such Owner or Sub-Association to recover all costs and expenses incurred to repair or reconstruct such slope.

(e) Fire Sprinklers. No Owner shall remove, disable, alter or otherwise modify any fire sprinkler system installed in such Owner's Dwelling or appurtenant structures.

(f) Restrictions on Improvements to Lots Subject to Storm Drain Easements. Various Lots in the Community are subject to certain easements in favor of the Master Association for the installation, maintenance, repair and reconstruction of storm drains and related facilities ("Storm Drain Easement"). The easement may range in width from approximately ten feet (10') to approximately twenty feet (20'). Each Storm Drain Easement is shown and described on a recorded Tract map for a portion of the Community or other instrument of record, and is reserved for conveyance to the Master Association, but may also be used by the City and/or other Public Agencies. Any Owner desiring to build, construct, erect, plant or otherwise install any Improvements in the portion of his Lot subject to a Storm Drain Easement shall strictly comply with restrictions set forth herein. No Owner shall build, construct, erect or otherwise install any structural Improvements (including, but not limited to, retaining walls, swimming pools, spas, room additions, etc.), nor place any fill, upon a Storm Drain Easement. All Improvements within such Easement are subject to approval by the Master Association's Design Review Committee as provided herein and may be limited to turf, ground cover, irrigation systems, fences, sidewalks and other similar non-structural Improvements (collectively the "Permitted Improvements"). No trees of any size shall be permitted within any Storm Drain Easement nor within eight feet (8') of the centerline of the actual in-place storm drain lines. Each Owner acknowledges that the Master Association may enter in and upon a Storm Drain Easement and perform any work it deems necessary or appropriate. Subject to the limitation set forth hereinbelow, the Master Association shall, at its cost, repair or replace all Permitted Improvements located within the Storm Drain

Easement that were removed or damaged in connection with work performed by the Master Association. The Master Association's duty to repair or replace Permitted Improvements shall be limited to turf and ground cover and related irrigation systems and standard finish concrete surfaces. In no event shall the Master Association's duty be interpreted or construed to include the repair or replacement of exotic or extraordinary landscaping, or enhanced hardscape improvements (e.g., bricks, rock work, etc.). The Owner shall, at his sole cost and expense, repair, replace and/or restore all other improvements located within the Storm Drain Easement that were removed or damaged in connection with the work performed by the Master Association.

Section 19. Government Regulations. All of the provisions of this Article regulating the construction of Improvements within the Community are in addition to and shall not limit the effect of any applicable laws, regulations, codes or other governmental or public utility requirements. The Declarant, the Merchant Builders, the Master Association, the Design Review Committee, and their respective directors, officers, Members, employees, consultants and agents do not make any representations whatsoever that said laws, regulations, codes or other requirements permit construction of any Improvements to the same degree as permitted by this Master Declaration or the Design Guidelines. It shall be the responsibility of each Owner to ascertain the applicability of all laws, regulations, codes and other governmental and public utility requirements to any proposed Improvements to his Lot or Condominium. Notwithstanding any other provision in this Master Declaration to the contrary, all Improvements to any Lot or Condominium must be designed, constructed, installed and maintained in accordance with all applicable laws, regulations, codes and other governmental and public utility requirements; provided however, if any such laws, regulations, codes or other requirements are less restrictive than the provisions of this Master Declaration or the Design Guidelines, the provisions of this Master Declaration and the Design Guidelines shall nonetheless apply.

Section 20. Rights of the Disabled. The Design Review Committee shall neither construe nor apply the provisions of this Article so as to unreasonably restrict the right of any Owner who is blind, deaf or otherwise physically disabled or handicapped to modify his Lot or Condominium, at such Owner's sole cost and expense, to accommodate such Owner's disability.

ARTICLE X

**REPAIR AND MAINTENANCE**

Section 1. Repair and Maintenance by the Master Association. Except as

otherwise provided in this Master Declaration and subject to any Landscape Maintenance Agreement, the Master Association shall maintain all of the Master Association Property and Maintenance Areas in accordance with the Maintenance Guidelines and the maintenance standards set forth in Section 4 hereinbelow so as to keep the Master Association Property and Maintenance Areas in a neat, clean, safe and attractive condition at all times. Such maintenance shall include inspecting, maintaining, repairing, painting, restoring, replacing and making necessary improvements to the Master Association Property and/or Maintenance Areas, which include, without limitation, the following:

(a) All common recreational facilities (including, without limitations, all private parks and the recreational amenities constructed thereon), all green belts and landscaped open space areas (and related irrigation systems);

(b) Any private streets owned in fee by the Master Association or over which the Master Association owns an easement for maintenance purposes (including, without limitation, the curbs, gutters, street lights, directional signs and private storm drain systems), landscaped parkways, medians and streetscapes (and related irrigation systems);

(c) Those certain eucalyptus wind rows located within Long Meadow and Regal streets and/or otherwise indicated on the Woodbury Master Maintenance Exhibit;

(d) All Street Trees; (The Master Association shall annually trim and prune the Street Trees, shall root prune any of the Street Trees as needed, and shall replace any seriously diseased or dying Street Tree as needed. Additionally, the Master Association shall irrigate each Street Tree, unless such Street Tree is located on a portion of the Master Association Property over which a Sub-Association has an easement for landscape maintenance pursuant to a Landscape Maintenance Agreement);

(e) All structural Best Management Practices located on the Master Association Property in accordance with the Water Quality Management Plans;

(f) All common storm drain facilities; (The Master Association shall also paint and maintain all signs and warnings [e.g. Drains to Ocean] installed by Declarant or a Merchant Builder on any catch basin or other drainage device regarding the disposal of hazardous materials or other pollutants therein);

(g) All private utility lines, connections and related facilities;  
(h) The exterior surface(s) (i.e., the surface[s] facing a public or private street so as to be generally visible to the public and/or the residents within the Community [excluding all surfaces of any decorative metal which encloses in whole or in part an Owner's Lot or Condominium]), the top and the structural integrity of all Master Association Walls;

(i) All Community entry monuments;  
(j) All common furnishings, equipment and other personal property owned by the Master Association; and

(k) All other areas, facilities, equipment, and other Improvements as may from time to time be approved by the vote or written consent of Delegates representing a majority of the voting power of Members, other than Declarant and the Merchant Builders.

Without limiting the generality of the foregoing, the Master Association shall maintain all Special Benefit Improvements, and shall keep same in a neat, clean, safe and attractive condition at all times in accordance with the Maintenance Guidelines and with the Maintenance Standards set forth in Section 4 hereinbelow.

Section 2. Repair and Maintenance by a Sub-Association. Each Sub-

Association shall be responsible for maintaining and repairing its Sub-Association Property and any other Improvements (including, but not limited to, the Sub-Association Walls, the interior surface of any Master Association Wall which borders the Sub-Association Property, and any portion of the Master Association Property over which the Sub-Association has an easement for landscape maintenance pursuant to a Landscape Maintenance Agreement) in accordance with the Maintenance Guidelines and the maintenance standards set forth in Section 4 below so as to keep same in a neat, clean, safe and attractive condition at all times. Without limiting the foregoing, each Sub-Association shall, to the maximum extent reasonably feasible, coordinate the contracting of maintenance work (e.g., maintenance of landscape areas, etc.) and other goods and

services required by the Sub-Association (e.g., insurance and property management, etc.) with the contracting of similar maintenance work and goods and services required by the Master Association in order to maximize cost efficiencies to both the Sub-Association and the Master Association, and to minimize the inconvenience to the Owners and other residents in the Community while such maintenance work is being performed. The members of a Sub-Association may not amend a Supplemental Declaration to terminate or modify any of the maintenance responsibilities of such Sub-Association without the prior written approval of the Board of the Master Association and the City. In the event that any Sub-Association shall permit any Sub-Association Property, or other area or Improvement which it is responsible to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after affording the board of directors of such Sub-Association Notice and Hearing, shall have the right, but not the obligation, acting through its agents and employees to correct such condition, and to enter upon such Sub-Association Property for the purpose of performing the necessary maintenance and repairs. The Sub-Association shall reimburse the Master Association for the cost thereof within thirty (30) days of receipt of demand for reimbursement. Such cost may be levied by the Master Association as a Compliance Assessment enforceable in the manner as set forth in this Master Declaration.

Section 3. Repair and Maintenance by Owners. Subject to the Master Association's maintenance obligations and a Sub-Association's maintenance obligations as referenced above, every Owner shall maintain his respective Lot or Condominium in accordance with the maintenance standards set forth in Section 4 hereinbelow so as to keep same in a neat, clean, safe and attractive condition at all times. Such maintenance shall include, but not be limited to, inspecting, maintaining, repairing, painting, restoring, replacing and making necessary improvements to his Lot or Condominium, including, without limitation, the following:

- (a) the Dwelling and all related Improvements located on the Owner's Lot or within his Condominium Unit (including, but not limited to, swimming pools, spas and related equipment, patios, patio covers, decks, deck covers, windows, awnings, screens, doors, screen doors, fences, gates and landscaping);
- (b) the interior surface of any Master Association Wall (and/or Sub-Association Wall) which encloses in whole or in part the Owner's private yard area or is otherwise located on the Owner's Lot or Condominium (including all surfaces of

any decorative metal included as part of a Master Association Wall or Sub-Association Wall);

(c) the interior surface of a "Party Wall" which encloses in whole or in part the Owner's private yard area and which such Owner shares with one or more Owners (together with a pro rata share of all costs of structural repairs to such "Party Wall") as more particularly set forth in below;

(d) any drainage facilities (including downspouts and rain gutters, yard drains and drain lines, swales and other drainage devices), whether surface or subsurface located on the Owner's Lot or Condominium;

(e) all hardscape (including, but not limited to, patios, entry walkways, planters and driveways) located on the Owner's Lot or within his Condominium Unit; and

(f) all landscaping, (including, but not limited to trees, shrubs, bushes, lawn and all other plantings) and the related irrigation systems located on the Owner's Lot or within his Condominium Unit.

Section 4. Maintenance Standards. The Master Association shall maintain all Master Association Property and the Maintenance Areas, a Sub-Association shall maintain its Sub-Association Property and any other Improvements as required herein and in the Supplemental Declaration, and each Owner shall maintain his respective Lot or Condominium in accordance with the provisions of the Master Association Documents, all applicable ordinances and regulations of the Public Agencies having jurisdiction over the Community and the following general maintenance standards:

(a) All lawn areas which are visible from a street shall be evenly cut, evenly edged, free of bare or brown spots and free of debris and weeds above the level of the lawn. All landscaped areas, other than such lawns which are visible from a street, shall be free of weeds, dead vegetation and debris.

(b) All trees (including the Street Trees) and all shrubs shall be trimmed so they do not impede pedestrian traffic along the streets and sidewalks. Trees shall be pruned so they do not contact improvements constructed on an adjoining Lot or Condominium and shall be maintained so they do not have droppings or create other nuisances to adjoining Lots or Condominiums or the Master

Association Property. All trees shall also be root pruned to eliminate exposed surface roots and damage to Dwellings, Master Association Walls, Sub-Association Walls, streets, sidewalks, driveways or other Improvements. All private streets, walkways and sidewalks shall be maintained so that they are safe for users. Significant pavement cracks, pavement distress, excessive slab settlement, abrupt vertical variations and debris shall be removed or repaired promptly.

(c) All Master Association Property, Maintenance Areas, Sub-Association Property, if any, and all Lots and Condominiums shall be maintained in such a manner as to avoid the reasonable determination that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to public health, safety or general welfare, or that such a condition of deterioration or disrepair cause harm or is materially detrimental to property values or Improvements within the boundaries of the Community.

(d) All surfaces of any decorative metal included as part of a Master Association Wall (or a Sub-Association Wall) which is to be maintained by the Master Association (or a Sub-Association) or by an Owner shall be painted as needed to eliminate cracking, chipping, and oxidation, but in no event less frequent than every two (2) years. The brands of paint and colors which may be used are set forth in the Design Guidelines.

(e) In all events, the landscaping of Lot A of Tract 16495 which is located adjacent to the Jeffrey Open Space Spine (as designated on the Woodbury Master Maintenance Exhibit) shall be complementary with the character of the landscaping of the Jeffrey Open Space Spine at all times, and such landscaping on said Lot A may not be removed, altered or otherwise modified without the prior express written approval of the City Director of Community Services.

Section 5. Maintenance by the City. The City of Irvine, by means of a Landscape, Lighting and Park Maintenance Assessment District shall maintain certain parkways and streetscapes within and/or adjacent to the Community in accordance with the standards adopted by the District in its sole discretion. The parkways and streetscapes to be maintained by the City are shown on the Woodbury Master Maintenance Exhibit. Additionally, the City shall

maintain all of the public sidewalks in the Community in accordance with the City's maintenance standards.

Section 6. Preservation of Proper Drainage. The Master Association

Property and each Lot and Condominium in the Community was carefully graded to provide positive drainage away from the entire foundation line of the Dwellings and other structures. Positive drainage is achieved by shaping and cutting drainage swales or channels in the ground. These swales are engineered progressively lower than the adjoining surface ground areas and provide a conduit to drain water away from foundations and into the streets or Community storm drain system. The Master Association (as to the Master Association Property and Maintenance Areas) and each Sub-Association (as to its Sub-Association Property) and each Owner (as to his respective Lot or Condominium) shall maintain any graded drainage swale and/or any other drainage device located thereon in a neat, clean, safe and proper operating condition at all times so as to assure proper drainage of surface waters in, on, over, across and through such drainage swales and/or other applicable drainage devices. The Master Association, each Sub-Association and each Owner shall not perform any grading or build, construct, install or plant any improvements which would obstruct the structural integrity or proper operation of any drainage swale or other drainage device, trap or otherwise cause water to pond adjacent to a Dwelling or other structure or result in creating an excessive amount of surface water runoff.

Section 7. Annual Inspection by the Master Association. In addition to the inspection conducted as part of the reserve study pursuant to Section 1365.5(e) of the California Civil Code, as same may be amended from time to time, it shall be the duty of the Board to inspect the Master Association Property and Maintenance Areas at least once each calendar year and cause a report to the Members to be prepared in accordance with the following:

(a) Purpose of Inspection. The purpose of the inspection shall be to (i) determine whether the Master Association Property and Maintenance Areas are being maintained adequately in accordance with the standards set forth in Section 4 hereinabove, (ii) identify the condition of such Master Association Property and Maintenance Areas, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement or repair, and (iii) recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future.



(b) Scope of Inspection. All of the Master Association Property and Maintenance Areas shall be thoroughly inspected and tested, as applicable.

(c) Experts and Consultants. The Board may employ such experts and consultants as are necessary to perform the inspection and prepare the report required herein.

(d) Report to Owners. The Board shall cause a report of the results of the inspection to be prepared. The report shall be furnished to Owners within the time set forth for furnishing Owners with the budget. The report shall include at least the following:

(1) a description of the condition of the Master Association Property and Maintenance Areas, including a list of items inspected, and the status of maintenance, repair and need for replacement of any improvements thereon;

(2) a description of all maintenance, repair and replacement planned for the ensuing fiscal year and included in the Master Association's budget (or budget for the respective Special Benefit Area);

(3) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;

(4) a summary of all reports of inspection performed by any expert or consultant employed by the Board to perform inspections;

(5) a report of the status of compliance with the maintenance, replacement and repair needs set forth in the inspection report for the immediately preceding year; and

(6) such other matters as the Board deems appropriate.

Section 8. Compliance. If after prior Notice and Hearing, the Board determines that a Sub-Association or an Owner has failed to perform its respective maintenance obligations, the Board shall have the right, but not the obligation, acting through its agents and employees, to enter in and/or upon any Sub-Association Property or Condominium to perform such maintenance and repairs as may be reasonably required to bring same into compliance with the Protective Covenants set forth in this Master Declaration. The cost of such

maintenance and repairs shall be levied by the Board as a Compliance Assessment against the respective Sub-Association or Owner as provided in this Master Declaration.

Section 9. Damage and Destruction Affecting a Lot or Condominium -

Duty to Rebuild. In the event any Dwelling or other structure is damaged or destroyed by fire or other casualty, it shall be the duty of the affected Sub-Association (if applicable) or the duty of the Owner of the affected Lot or Condominium to repair or reconstruct any affected Dwelling in a manner which will restore it to its condition and appearance immediately prior in time to such damage or destruction, or as otherwise approved by the Design Review Committee. The affected Sub-Association or Owner shall be obligated to proceed with all due diligence hereunder, and shall promptly commence reconstruction within a reasonable time after the damage occurs, and shall complete such reconstruction as soon as reasonably possible thereafter.

Section 10. Party Walls.

(a) General Rules of Law to Apply. Each wall and fence (save and except any structural wall of a Dwelling and any Community Wall) which is built as a part of the original construction by Declarant or a Merchant Builder and which is located on the property line or which serves as the effective boundary between two (2) or more Lots or Condominiums shall be deemed to be and treated in the same manner as a "Party Wall". To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply hereto.

(b) Sharing of Repair and Maintenance. Unless covered by insurance maintained by the Master Association, the cost of reasonable structural repair and maintenance of a Party Wall shall be shared equally by the Owners of the Lots or Condominiums which share such common wall or fence. However, each Owner shall be solely responsible for maintaining and painting the side of any Party Wall facing his Lot or Condominium.

(c) Destruction by Fire or Other Casualty. Unless covered by insurance maintained by the Master Association, if a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Lot or Condominium is affected thereby may restore it, and the Owner(s) of any other Lot(s) or Condominium(s) which is/are affected thereby shall contribute equally to the cost of restoration

thereof, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right of Contribution. The right of any Owner to contribution from any other Owner for work performed pursuant to this Master Declaration shall be apportioned to and shall run with the land and shall be binding upon the Owners and their successors, assigns and grantees. Notwithstanding the foregoing, the duty and obligation to pay contribution for work already performed pursuant to the provisions of this Master Declaration shall not run with the land or be binding upon (i) any first Mortgagee who obtains title pursuant to either a foreclosure under its Deed of Trust or by a deed in lieu of foreclosure, or (ii) any purchaser at a foreclosure sale.

Section II. Reservation of Access Easement for Inspection and Repairs.

Declarant hereby reserves unto itself and each Merchant Builder, and their respective successors and assigns, and unto the Master Association, a nonexclusive easement for ingress, egress and access on, over and across those portions of the Community (including the Lots and Condominiums) as are reasonably necessary to conduct inspections and tests, and to perform repairs and any other activities as Declarant, a Merchant Builder and/or the Master Association may deem appropriate. Such access easement may be exercised by the Declarant, a Merchant Builder, the Master Association and/or their authorized agents and employees upon reasonable prior notice to the Master Association, a Sub-Association and/or an affected Owner, as the case may be and shall only be exercised during normal business hours. Such access easement shall be exercised with as little inconvenience as is practicable under the circumstances, and in the event that any damage is caused thereby, the Declarant, the Merchant Builder or the Master Association, as the case may be, shall repair the same at its sole cost and expense. Notwithstanding the foregoing, in the event of any emergency, such right of access shall be immediate.

**DAMAGE OR DESTRUCTION OF IMPROVEMENTS  
MAINTAINED BY THE MASTER ASSOCIATION**

**ARTICLE XI**

Section 1. Restoration of Damaged Master Association Property and/or Maintenance Areas. Except as otherwise provided in Section 2 hereinbelow, damage to or destruction of all or any portion of the Master Association Property and/or Maintenance Areas shall be handled in the following manner:

(a) Damage to the Master Association Property and/or Maintenance Areas - Sufficient Insurance Proceeds. In the event of damage to or destruction on the Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas and the insurance proceeds are sufficient to effect total restoration, the Master Association shall, as promptly as is practical, cause the same to be repaired and reconstructed in a good workmanlike manner to its condition prior to such damage or destruction.

(b) Damage to the Master Association Property and/or Maintenance Areas - Insufficient Insurance Proceeds. Subject to the provisions of Section 2 below, in the event of damage to or destruction of any of the Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas and the Master Association's insurance proceeds are insufficient to effect total restoration, the Master Association shall, as promptly as practical, cause such Master Association Property and/or Maintenance Areas to be repaired and reconstructed in a good workmanlike manner to its condition prior to the damage or destruction, and the difference between the Master Association's insurance proceeds and the actual costs shall be levied by the Master Association as a Special Assessment against each Lot and Condominium in the Community on the same basis as Regular Assessments are levied against the Lots and Condominiums.

(c) Damage to the Special Benefit Improvements. In the event of damage to or destruction of the Special Benefit Improvements for a Special Benefit Area and the Master Association's insurance proceeds are sufficient to effect total restoration, the Master Association shall, as promptly as is practical, cause the same to be repaired and reconstructed in a good workmanlike manner to their condition

prior to such damage or destruction. If the Master Association's insurance proceeds are insufficient to effect total restoration, the Master Association shall, as promptly as practical, cause such Special Benefit Improvements to be repaired and reconstructed in a good workmanlike manner to their condition prior to the damage or destruction, and the difference between the insurance proceeds and the actual cost shall be levied by the Master Association as a Special Assessment against all of the Owners of the Lot(s) and/or Condominium(s) within the affected Special Benefit Area.

Section 2. Election Not to Restore Damaged Master Association Property

and/or Maintenance Areas. Notwithstanding the provisions set forth in Section 1(b) hereinabove, in the event that Delegates constituting a quorum have cast affirmative votes on behalf of the Owners (other than Declarant and the Merchant Builders) of at least sixty-seven percent (67%) of all Lots and Condominiums in the Community, and sixty-seven percent (67%) of the first Mortgages (based upon one [1] vote for each first Mortgage owned) have given their prior written approval, the Master Association may elect not to rebuild or restore the Master Association Property and/or Maintenance Areas, and to disburse the available insurance proceeds to the general fund of the Master Association. The affected areas shall be cleared of all debris and shall be landscaped and irrigated so as to keep such areas in a neat, clean, safe and attractive condition at all times. The cost thereof shall be paid for out of the available insurance proceeds prior to their distribution to the general fund of the Master Association.

Section 3.

Election Not to Restore Special Benefit Improvements. In the

event that Delegates constituting a quorum (i.e., Delegates representing more than fifty percent [50%] of the voting power of the Owners owning Lots or Condominiums within the affected Special Benefit Area) have cast affirmative votes on behalf of at least sixty-seven percent (67%) of the Owners (other than Declarant and the Merchant Builders) of the Lots or Condominiums within such Special Benefit Area, and sixty-seven percent of the first Mortgages (based upon one [1] vote for each first Mortgage owned) have given their prior approval, the Master Association may elect not to rebuild and restore the damaged or destroyed Special Benefit Improvements.

Section 4.

Retention of Excess Insurance Proceeds in General Fund. In the

event any excess insurance proceeds remain after restoring the destroyed Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas pursuant to

this Article, the Board shall retain such sums in the general fund of the Master Association. In the event any excess insurance proceeds remain after restoring the Special Benefit Improvements, the Board shall retain such funds in a special fund for the benefit of the affected Special Benefit Area.

Section 5. Notice to Owners and Mortgages. The Board shall, as soon as reasonably possible following any damage or destruction of Improvements in the Master Association Property and/or Maintenance Areas notify all Owners and holders, insurers and guarantors of first Mortgages on Lots and/or Condominiums in accordance with the provisions of the Article herein entitled "Mortgage Protection."

Section 6. Damage by Owners. To the extent permitted by law, each Owner shall be liable to the Master Association for any damage to any of the Master Association Property and/or Maintenance Areas not fully reimbursed to the Master Association by insurance if the damage is sustained due to the negligence, willful misconduct, improper installation or maintenance of an Improvement by an Owner, the members of his family, his tenants, lessees and their respective guests or invitees. The Board shall have the right, after Notice and Hearing, as provided in the Bylaws, to levy a Damage Reimbursement Assessment for any damages so caused by or attributable to such Owner, including, without limitation, the costs of any increased insurance premiums resulting from such damage.

Section 7. Use of Special Assessments. All amounts collected pursuant to Special Assessments as provided for in this Article shall only be used for the purposes set forth herein, and shall be deposited by the Board into a separate bank account to be held in trust for such purposes.

## ARTICLE XII CONDEMNATION

Section 1. Distribution of Awards. Subject to the limitations set forth in the Article herein entitled "Mortgage Protection," a condemnation award affecting any portion of the Community that is not apportioned among the Owners by court judgment, or by agreement between the condemning authority and each of the affected Owners in the Community, shall be distributed among the affected Owners (and their respective Mortgages) based upon the affected

Owners' ownership or other rights in the condemned portion of the Community. All first Mortgagees shall have the right to participate in any condemnation proceedings.

Section 2. Distribution of Awards - Master Association Property. A condemnation award affecting all or any portion of the Master Association Property shall be remitted to the general fund of the Master Association; however a condemnation award affecting any Special Benefit Improvements shall be remitted to a special fund for the benefit of the affected Special Benefit Area.

Section 3. Board of Directors as Attorney-in-Fact. All Owners hereby appoint the Board as their special attorney-in-fact to handle the negotiations, settlements and agreements pertaining to any condemnation affecting only the Master Association Property.

### ARTICLE XIII

#### COVENANT AGAINST PARTITION

Section 1. Covenant Against Partition. By acceptance of his deed, each Owner shall be deemed to covenant for himself, and for his heirs, representatives, successors and assigns, that he will not institute legal proceedings to effect judicial partition of his interest in the Community, unless the Community: (a) has been in existence in excess of fifty (50) years, (b) is obsolete and uneconomical, and (c) the Delegates representing the Owners of at least sixty-seven percent (67%) of all Lots and Condominiums in the Community and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each Mortgage owned) consent to or join in such action for partition.

Section 2. Covenant Against Partition of a Condominium Project. The Owner of a Condominium in the Community may maintain a partition action for such Condominium Project from the overall Community as provided herein. The court shall order partition of the Condominium Project from the overall Community under this Article by sale of the Condominium Project, but only upon a showing of at least one (1) of the following:

(a) More than three (3) years before the filing of the action, the Condominium Project was damaged or destroyed so that a material number of the Condominiums were rendered unfit for their prior use, and the Condominium Project has not been rebuilt or repaired substantially to its state prior to the damage or destruction;

(a) Casualty and Fire Insurance. A policy or policies of casualty and fire insurance with extended coverage endorsement in an amount equal to one hundred percent (100%) of the then current replacement cost (without deduction for depreciation or co-insurance) of the Master Association Property and Maintenance Areas. Such policy or policies must be written by an insurance carrier that has an acceptable rating from A.M. Best Company, DemoTech, Inc., or Standard and Poor's Inc. in accordance with FNMA's requirements. Said policies shall be primary and shall be maintained for the benefit of the Master Association, the Owners and the Mortgagees, as their interests shall appear and shall waive the right of subrogation against Owners, if obtainable. The deductible shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount, if obtainable. The coverage does not need to include land, foundations, excavations, or other items

coverage shall be a Common Expense.

by and through the Board, shall obtain and maintain at all times for the Master Association the insurance coverage set forth herein. Except as otherwise provided herein, the premiums for such

Section 1. Required Insurance Coverage. The Master Association, acting

**ARTICLE XIV  
INSURANCE**

(c) The Condominium Project has been in existence more than fifty (50) years, is obsolete and uneconomical, and Delegates representing the Owners of at least sixty-seven percent (67%) of the Condominiums and sixty-seven percent (67%) of the first Mortgagees (based upon [ ] vote for each first Mortgage owned) oppose repair or restoration of the Condominium Project.

Condominium Project; or

(b) Three-fourths (3/4) or more of the Condominiums in the Condominium Project were destroyed or substantially damaged, and Delegates representing at least sixty-seven percent (67%) of the voting power of the Master Association and sixty-seven percent (67%) of the first Mortgagees (based upon one [ ] vote for each first Mortgage owned) oppose repair or restoration of the



normally excluded from such coverage. Such policy or policies must contain, if required and if obtainable:

- (1) An Agreed Amount and Inflation Guard Endorsement;
- (2) Construction Code Endorsements (such as Demolition Cost Endorsement);
- (3) Contingent Liability From Operation of Building Laws Endorsement; and
- (4) Increased Construction Endorsement if there is a construction code provision which would become operative and require changes to undamaged portions of the buildings within the Master Association Property.

(b) Public Liability Insurance. A policy or policies of comprehensive public liability insurance (with cross-liability endorsement, if obtainable) insuring the Master Association, the Board, the Owners, the Declarant and the Merchant Builders and their respective officers, directors, shareholders, employees and agents against any liability to the public or to any Owner, the members of his family, his tenants and lessees and their respective guests and invitees, arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Master Association Property and/or Maintenance Areas. The limits of liability under this Section shall be set by the Board and shall be revised at least annually by the Board, and increased or decreased at the discretion of the Board; provided, however, that said limits shall not be less than Three Million Dollars (\$3,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence; and, provided further, that if the FHLMC and/or the FNMA participate in the financing of Lots and/or Condominiums in the Community, said limits shall not be less than the minimum limits required under the then current FHLMC and/or FNMA regulations.

(c) Fidelity Bonds. Fidelity bonds naming all persons signing checks or otherwise possessing fiscal responsibilities on behalf of the Master Association, including, but not limited to, members of the Board, officers and employees of the Master Association, and officers, employees and agents of any management company employed by the Master Association who handle or are responsible for the administration of Master Association funds, if obtainable. Such coverage shall be in

an amount deemed reasonably appropriate by the Master Association, but shall not be less than the estimated maximum funds in the custody of the Master Association, or twenty-five percent (25%) of the estimated annual operating expenses of the Community, plus reserves, whichever is greater. In addition, if the Master Association enters into an agreement for professional management of the Community, the Master Association shall require such firm to submit evidence of such firm's fidelity bond coverage to the same extent as the Master Association's coverage, and the Master Association shall be named as an additional insured under such coverage, if obtainable.

(d) Workers' Compensation. A policy or policies for all employees of the Master Association in such amounts as may be required by law.

With respect to each Special Benefit Area, the Board shall obtain and maintain at all times a policy or policies of casualty and fire insurance with extended coverage, public liability insurance and such other insurance as the Board may deem necessary and appropriate. The coverage under such policies, including without limitation, the limits of liability, shall be set by the Board and shall be reviewed at least annually. The premiums (and any deductibles) for such insurance shall be a Special Benefit Expense assessable only to the Owners of Lots and/or Condominiums within the respective Special Benefit Area.

Section 2. Optional Insurance Coverage. The Master Association, acting at its option and by and through the Board, may purchase such other insurance as it may deem necessary or appropriate, including, but not limited to, officers and directors errors and omissions insurance, earthquake insurance and flood insurance.

Section 3. Notice of Cancellation of Insurance. All policies of insurance maintained by the Master Association pursuant to this Article shall contain a provision that coverage under said policies may not be canceled, terminated, allowed to expire by their own terms, or be substantially modified by any party without at least thirty (30) days' prior written notice to the Board, to each Owner, and to such first Mortgagees who have filed written request with the Master Association for such notice. A list of the Owners and such first Mortgagees shall be made available by the Master Association to the insurance carrier upon request.

Section 4. Annual Review of Coverage. The Board shall annually determine whether the amounts and types of insurance coverage that it has obtained pursuant to

this Article shall provide adequate coverage for the Community, based upon the then current construction costs, insurance practices in the area in which the Community is located, and all other factors which may indicate that either additional insurance coverage or increased coverage under the existing policies is necessary or desirable to protect the interests of the Master Association, the Owners and their respective Mortgagees. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain same.

Section 5. Waiver by Owners. As to all policies of insurance maintained by the Master Association which will not be voided or impaired thereby, each Owner hereby waives and releases all claims against the Master Association, the Board, the Declarant, the Merchant Builders and the officers, employees and agents of each of the foregoing, and all other Owners with respect to any loss covered by such insurance, whether or not caused by the negligence of, or breach of, any agreement by said persons, but only to the extent of the insurance proceeds received in compensation for such loss.

Section 6. Premiums, Proceeds and Settlement. Insurance premiums for all blanket insurance coverage and any other insurance coverage which the Board has determined is necessary to protect the interests of the Master Association, the Owners and their respective Mortgagees, shall be a Common Expense to be included in the Regular Assessments levied by the Master Association. Funds sufficient to cover the applicable deductibles should be maintained by the Master Association in its reserve accounts. Deductibles may also be funded as a Common Expense included in Regular Assessments (or as a Special Benefit Expense in the case of a Special Benefit Area) or may be funded as a Special Assessment. All insurance proceeds paid to the Master Association shall be disbursed as follows: (a) in the event of any damage or destruction to the Master Association Property and/or Maintenance Areas, such proceeds shall be disbursed in accordance with the provisions of the Article herein entitled "Damage or Destruction of Improvements Maintained by the Master Association;" and (b) in the event of any other loss, the proceeds shall be disbursed as the Board shall deem appropriate subject to the limitations set forth in the Article herein entitled "Mortgagee Protection." The Master Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) Directors of the Master Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Master Association and its Members.

Section 7. Rights and Duties of Owners to Insure. Each Owner may obtain

insurance on his personal property, his Lot or Condominium and all other improvements thereto. Nothing herein shall preclude any Owner from carrying any public liability insurance as he may deem desirable to cover his individual liability for damage to persons or property occurring on or within his individual Lot or Condominium or elsewhere within the Community. If obtainable, such liability insurance coverage carried by an Owner shall contain a waiver of subrogation of claims against the Declarant, the Merchant Builders, the Master Association and the Board, and their officers, employees, agents and all other Owners. Such other policies shall not adversely affect or diminish any liability under insurance obtained by the Master Association. If any loss intended to be covered by insurance carried by the Master Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Master Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied. Each Sub-Association shall maintain insurance coverage in accordance with the provisions of its Supplemental Declaration.

Section 8. Trustee for Policies. The Board is hereby appointed and shall be deemed trustee for the interests of all insureds under the policies of insurance maintained by the Master Association. All insurance proceeds under such policies shall be paid to the Board, as trustee, and the Board shall have full power to receive such funds on behalf of the Master Association, the Owners and their respective Mortgages, and to deal therewith as provided for in this Master Declaration.

Section 9. Mortgage Clause. All insurance policies should have the "standard mortgage clause," or equivalent endorsement, providing that coverage of a Mortgagee under the insurance policy will not be adversely affected or diminished by an act or neglect of the Mortgagee, which is commonly accepted by private institutional mortgage investors in the area in which the Community is located, unless such coverage is prohibited by applicable law.

Section 10. Compliance With Requirements of FHLMC and FNMA.

Notwithstanding the provisions of this Article, the Master Association shall obtain and maintain in effect such policies of insurance meeting all requirements of FHLMC and FNMA established by those entities for planned developments for so long as any of such agencies continue to be a

Mortgage, Owner, insurer or guarantor of a Mortgage in the Community, except to the extent such coverage is not available or has been waived, in writing, by such agencies.

## ARTICLE XV

### MORTGAGEE PROTECTION

#### Section 1. Mortgage Protection Provisions.

Notwithstanding any other provisions in this Master Declaration to the contrary, in order to induce the FHLMC, FNMA, GNMA and other lenders and investors to participate in the financing of the sale of Lots and Condominiums in the Community, the following provisions contained within this Article are added hereto, and, to the extent these added provisions conflict with any other provisions in this Master Declaration, these added provisions shall control. As used herein, an "Eligible Mortgage Holder" shall mean and refer to the holder, insurer or guarantor of a first Mortgage on a Lot or Condominium who has filed with the Master Association a written request for notice of certain information as provided herein. An Eligible Mortgage Holder must send a written request for such information to the Master Association, stating its name and address and the address of the Lot or Condominium on which it holds (or insures or guarantees) the Mortgage.

(a) The right of an Owner to sell, transfer or otherwise convey his Lot or Condominium shall not be subject to any right of first refusal or any similar restriction in favor of the Master Association.

(b) The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter recorded upon any Lot or Condominium. The sale or transfer of any Lot or Condominium shall not affect the Assessment lien; however, the sale or transfer of any Lot or Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage, or pursuant to any remedies provided for in the Mortgage, shall extinguish the lien of such Assessments as to payments which became due prior thereto. No sale or transfer shall relieve such Lot or Condominium from liability for Assessments due thereafter. Any first Mortgagee who obtains title to a Lot or Condominium pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or any purchaser at a foreclosure sale of a first Mortgage, will not be liable for unpaid Assessments or charges which accrue prior to the acquisition of title to such Lot or Condominium by the Mortgagee (except

for claims for a share of such Assessments or charges resulting from a reallocation of such Assessments or charges to all Lots and Condominiums, including the mortgaged Lot or Condominium).

(c) Except as provided by statute in case of condemnation or substantial loss to the Lots and/or Condominiums and/or the Master Association Property, unless the Delegates have cast affirmative votes on behalf of the Owners (other than Declarant and the Merchant Builders) of at least sixty-seven percent (67%) of the Lots and Condominiums in the Community, and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) have given their prior written approval, neither the Master Association nor the Owners shall be entitled to:

(1) By act or omission, seek to abandon or terminate the Master Association, except for abandonment, partition or termination as may be provided by law;

(2) Record or file any amendment which would change the pro rata interest or obligations of any Lot or Condominium for purpose of levying Assessments or charges, or allocating distributions of hazard insurance proceeds or condemnation awards;

(3) Partition or subdivide any Lot or Condominium, except as provided in this Master Declaration; provided, however, that no Lot or Condominium may be partitioned or subdivided without the prior written approval of the first Mortgagee for such Lot or Condominium;

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the Master Association Property. The conveyance of title to and/or easements over portions of the Master Association Property in accordance with the provisions of Section 2 in Article III for the purposes set forth therein, for public utilities or for other public purposes consistent with the intended uses of the Master Association Property shall not be deemed a transfer within the meaning of this clause;

(5) Use hazard insurance proceeds for any losses for other than repair, replacement or reconstruction of the applicable improvements;

(6) Implement any decision of the Master Association to terminate professional management and assume self-management of the Community, where such professional management was previously a requirement by a holder, insurer or guarantor of any first Mortgage;

(7) By act or omission, change, waive or abandon any provisions of this Master Declaration, or enforcement thereof, pertaining to architectural design of the Lots and Condominiums, or the maintenance and operation of the Master Association Property and Maintenance Areas, including, without limitation, Master Association Walls, common sidewalks, fences, driveways, private streets, storm drains, water and sewer facilities and landscaping within the Community; and

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

(d) All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to individual Lot or Condominium and not to the Community as a whole.

(e) No provision of the Master Association Documents shall be interpreted to give any Owner or any other party priority over any rights of the first Mortgagee in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of all or any portion of the Master Association Property or such Owner's Lot or Condominium. All applicable fire and casualty insurance policies shall contain loss payable clauses acceptable to each first Mortgagee, naming the Mortgagees, as their interests appear, as additional insureds.

(f) The Assessments provided for in the Master Association Documents shall include adequate reserves for maintenance, repairs and replacement of those elements of the Master Association Property (and the Special Benefit Improvements) that must be replaced on a periodic basis, and shall be payable in regular installments rather than by Special Assessments.

(g) Each Eligible Mortgage Holder shall be entitled to timely written notice of:

- (1) Any condemnation or eminent domain proceeding, and any loss or taking resulting from such proceeding which affects the Community, or any portion thereof;
  - (2) Any substantial damage or destruction to the Community, or any portion thereof, when such loss exceeds Ten Thousand dollars (\$10,000.00);
  - (3) Any default in the performance by an individual Owner of any obligation under the Master Association Documents, including, without limitation, the nonpayment of Assessments, which is not cured within sixty (60) days after the Master Association learns of such default, which notice shall state the length of time such Owner has been delinquent;
  - (4) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Master Association;
  - (5) Any abandonment or termination of the Community; and
  - (6) Any proposed action that requires the consent of a specific percentage of Eligible Mortgage Holders.
- (h) Any agreement for professional management of the Community, or any contract providing for services of the Declarant or a Merchant Builder may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on a maximum of ninety (90) days' prior written notice.
- (i) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a lien on the Master Association Property, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Master Association Property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Master Association. Upon demand by any first Mortgagee, the Board shall execute, on behalf of the Master Association, an agreement establishing the right of all first Mortgagees to such reimbursement.
- (j) Each Eligible Mortgage Holder shall be entitled to:



(1) Examine current copies of the Master Association Documents and the Master Association's books, records and financial statements during normal business hours;

(2) Obtain from the Master Association a copy of an audited financial statement of the Community for the previous fiscal year (without expense to the holder, insurer, or guarantor requesting said statement). As set forth in the Article herein entitled "Powers and Duties of the Master Association," an annual report shall be available within one hundred twenty (120) days after the close of the fiscal year. If for any reason the report is not audited, it shall be accompanied by a certificate from an authorized officer of the Master Association that the report was prepared without audit from the books and records of the Master Association, and the Eligible Mortgage Holder may have an audited financial statement prepared at its own expense; and,

(3) Receive written notice of all meetings of the Master Association and be permitted to designate a representative to attend all such meetings;

(k) Each Owner shall notify the Master Association in writing within ten (10) days after the Close of Escrow for the purchase of his Lot or Condominium of the name and address of his first Mortgage, and, thereafter, each Owner shall promptly notify the Master Association of any change of name or address for his first Mortgage.

(l) Each Owner hereby authorizes a first Mortgagee on a Lot or Condominium to furnish information to the Board concerning the status of any such first Mortgage.

(m) In the event any portion of the Master Association Property encroaches upon any Lot or Condominium, or any Lot or Condominium encroaches upon the Master Association Property as a result of the construction, reconstruction, repair, shifting, settlement or movement of any improvement, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

(n) Subject to the provisions of Section 7 of the Article herein entitled "General Provisions," after the first Close of Escrow for the sale of a lot or Condominium in the Community, neither the Master Association, nor the Members may revoke or "materially amend" (as defined below) the Master Association Documents unless Delegates have cast affirmative votes representing at least sixty-seven percent (67%) of the total voting power of the Master Association, and at least fifty-one percent (51%) of the first Mortgagees (based upon one vote for each first Mortgage owned) of the Lots and Condominiums in the Community have approved such revocation or material amendment. An amendment or revocation regarding any of the following shall be considered material:

- (1) The legal status of the Community;
- (2) Voting rights;
- (3) Increases in Assessments that raise the previously assessed amount by more than twenty five percent (25%), assessment liens or the priority of assessment liens;
- (4) Reductions in reserves for maintenance, repair and replacement of the Master Association Property and Maintenance Areas;
- (5) Responsibility for the maintenance and repair of the Master Association Property and Maintenance Areas;
- (6) Reallocation of interests in the Master Association Property or rights to use the Master Association Property;
- (7) Insurance or fidelity bonds, and the entitlement to proceeds thereof;
- (8) Boundaries of any Lot or Condominium;
- (9) Ownership of the Master Association Property;
- (10) Encroachment by Improvements on a Lot or Condominium into the Master Association Property or by Improvements on the Master Association Property into a Lot or Condominiums;
- (11) Expansion or contraction of the Community, or addition, annexation or de-annexation of additional property to or from the Community;

(12) Conversion of any Lot or Condominium into Master

Association Property and vice versa;

(13) Imposition of restrictions on the leasing of the Lots or Condominiums;

(14) Imposition of restrictions on alienation, including, but not limited to, rights of first refusal;

(15) Mortgage protection provisions as set forth in this Master Declaration, and such other provisions herein for which the consent of Mortgagees shall be required or which are expressly for the benefit of Mortgagees, insurers or guarantors of Mortgages;

(16) Any action to terminate the legal status of the Community after substantial destruction or condemnation occurs;

(17) Any decision by the Master Association to establish self-management, if professional management had previously been required by an Eligible Mortgage Holder; and

(18) Restoration or repair of the Community in a manner other than as specified in this Master Declaration.

Any amendment to the Master Association Documents for the purpose of correcting technical errors or for clarification only shall not be deemed material.

Section 2. Violation of Mortgage Protection Provisions. No breach of any

of the foregoing Protective Covenants shall cause any forfeiture of title or reversion or bestow any right of reentry whatsoever, but in the event that any one or more of these Protective Covenants shall be violated, the Declarant, any Merchant Builder, the Master Association, any Sub-Association or any Owner in the Community may commence a legal action in any court of competent jurisdiction to enjoin or abate said violation and/or to recover damages; provided, however, such violation shall not defeat or render invalid the lien of any Mortgage made in good faith and for value. Said Protective Covenants shall be binding upon and effective against any Owner whose title is acquired by foreclosure, trustee sale or otherwise.

sixty-seven percent (67%) of the total voting power of the Master Association. The Master Association, pursuant to the vote or written assent of Delegates representing at least long as Declarant or any Merchant Builder owns any portion of the Annexable Property; and (b) provided such person or entity shall first obtain the approval in writing of: (a) the Declarant so Master Association may record a Notice of Annexation, as described in Section 3 of this Article, property to the scheme of this Master Declaration and to subject it to the jurisdiction of the owns any real property (other than the Annexable Property) and who desires to annex said Section 1. Annexation Pursuant to Approval. Any person or entity who Declaration as set forth in this Article. Additional property may be annexed to and become subject to this Master

**ANNEXATION OF ADDITIONAL PROPERTY**  
**ARTICLE XVI**

period. amendments shall not be recorded by Declarant until after the expiration of such thirty (30) day thirty (30) days thereafter, receive a notice of disapproval from any such entity. Said are, or have agreed to be, a holder, insurer or guarantor of a first Mortgage, and does not, within effective only if Declarant mails a copy of the amendment to all of the foregoing entities which FHLMC, FNMA and/or the GNMA; provided, however, that any such amendment shall be necessary to cause this Master Declaration to comply with the requirements of the DRE, recording a written instrument setting forth the amendment, provided that the amendment is time after the Close of Escrow for the first sale of a Lot or Condominium in the Community by intent, Declarant may amend this Master Declaration without the consent of the Members at any or subsidize any Mortgage of a Lot or Condominium in the Community. In furtherance of said meet all requirements necessary for FHLMC, FNMA and GNMA to purchase, guarantee, insure the intent of Declarant that the Master Association Documents and the Community in general Section 4. Amendments to Conform With Mortgage Requirements. It is of such amendment, unless such Mortgage shall have consented thereto in writing. Article herein entitled "General Provisions," no amendment to the Master Association Section 3. Effect of Amendments. Except as otherwise provided in the

Section 2. Annexation Pursuant to General Plan, Declarant (and any Merchant Builder with Declarant's consent) shall have the right to annex all or any part of the Annexable Property described in Exhibit "B" to this Master Declaration and to add such Annexable Property to the scheme of this Master Declaration so that it will be subjected to the jurisdiction of the Master Association without the assent of the Master Association, provided and on condition that:

(a) The development of the Annexable Property shall be in substantial conformance with the overall general plan of development for the Community originally submitted to and approved by the Public Agencies; and

(b) A Notice of Annexation, as described in Section 3 of this Article, shall be recorded covering the applicable portion of the Annexable Property.

Section 3. Notice of Annexation. The annexation of additional property authorized under this Article shall be made by recording a Notice of Annexation, or similar instrument, covering said property. The Notice of Annexation shall include at least the following, as applicable:

(a) A reference to this Master Declaration, which shall include the date of recordation hereof and the instrument number or other relevant recording data of the records of the County Recorder of the County of Orange where this Master Declaration is recorded, together with a statement that this Master Declaration shall apply to the Annexable Property as set forth herein;

(b) A description of the portion of the Annexable Property being annexed (including, as applicable, the legal description of the Lots and/or Condominiums and/or additional Master Association Property);

(c) A depiction of, or other reference to, any additional Maintenance Areas being annexed; and/or

(d) The number or other designation of a new Delegate District which is being formed or the existing Delegate District into which the Annexable Property is being incorporated, if applicable.

A Notice of Annexation may annex solely Master Association Property and/or Maintenance Areas so long as such annexation would not violate the provisions in this Master Declaration regarding increases in Regular Assessments. A Notice of Annexation may contain

such complementary additions to and modifications of the Protective Covenants set forth in this Master Declaration which are necessary to reflect the different character, if any, of the Annexable Property and which are not inconsistent with the general scheme of this Master Declaration. Except as set forth in this Section, no Notice of Annexation shall add, delete, revoke, modify, or otherwise alter the Protective Covenants set forth in this Master Declaration.

Section 4. Parties to Notice of Annexation. For so long as Declarant (or a Merchant Builder with Declarant's consent) has the right to annex all or any portion of the Annexable Property into the Community pursuant to Section 2 above, each Notice of Annexation covering property owned by Declarant shall be executed only by Declarant, and each Notice of Annexation covering property owned by a Merchant Builder must be executed by both the Merchant Builder and Declarant. Declarant's execution of any Notice of Annexation shall evidence Declarant's consent thereto.

Section 5. Effective Date of Annexation. A Notice of Annexation recorded on a subsequent Phase shall become effective immediately upon the first Close of Escrow for the sale of a Lot or Condominium in said Phase, or in the case of an Apartment Area, upon the first occupancy of an Apartment in such Apartment Area. Thereafter, the rights, obligations, privileges, duties and liabilities of the Owners in said Phase shall be governed by this Master Declaration. A Notice of Annexation that annexes only Master Association Property shall become effective concurrently with the recording of the grant deed conveying such Master Association Property to the Master Association, and a Notice of Annexation that annexes only a Maintenance Area shall become effective immediately upon recording of such Notice of Annexation.

Section 6. Amendments to a Notice of Annexation. Notwithstanding any other provisions of this Master Declaration to the contrary, a Notice of Annexation may be revoked, amended and/or restated solely by the Declarant (or by a Merchant Builder with Declarant's consent) prior to such Notice of Annexation becoming effective as provided in Section 5 above. Thereafter, a Notice of Annexation may be amended by the Delegate for such Delegate District upon the vote or written consent of a majority of the Members (and first Mortgagees, if applicable) in only such Phase, rather than by the Delegates casting affirmative votes or giving written consent on behalf of a majority of all Members of the Master Association (and first Mortgagees, if applicable) in the Community on the following conditions:

(a) Such amendment applies only to the Annexable Property described

in said Notice of Annexation; and

(b) Such amendment shall in no way contradict, revoke or otherwise

alter any of the Protective Covenants set forth in this Master Declaration.

Section 7. Right of Revocation and Deannexation. Declarant (and each

Merchant Builder with Declarant's consent) shall have the right to revoke a Notice of Annexation and de-annex a Phase that was previously annexed into the Community so as to delete said Phase from the scheme of this Master Declaration and from the jurisdiction of the Master Association, provided and on condition that each and all of the following conditions are satisfied: (i) no escrow has closed for the sale of a Lot or Condominium in the Phase being deannexed; (ii) Declarant has not exercised any vote attributable to any Lot or Condominium in the Phase being deannexed; (iii) Assessments have not commenced as to any Lot or Condominium in the Phase being deannexed; (iv) no Master Association Property in the Phase being deannexed has been conveyed to the Master Association; and (v) a Notice of De-annexation is executed by Declarant (and the Merchant Builder, if applicable) and recorded with the County Recorder. Additionally, the Master Association shall have the right to deannex any portion of the Master Association Property which it owns so as to delete said portion from the scheme of this Master Declaration and from the jurisdiction of the Master Association in furtherance of a conveyance of such portion of the Master Association Property pursuant to Section 2 of Article III of this Master Declaration.

## ARTICLE XVII

### ENFORCEMENT OF BONDED OBLIGATIONS

Section 1. Enforcement of Bonded Obligations. In the event that the

Improvements to the Master Association Property have not been completed prior to the issuance of a Final Subdivision Public Report by the DRE for a Phase of the Community, and the Master Association is obliged under a bond or other arrangement (hereinafter referred to as the "Bond") to secure the performance of a commitment by Declarant or a Merchant Builder to complete such Improvements, the following provisions shall apply:

(a) Board Action. The Board shall consider and vote on the question of action by the Master Association to enforce the obligations under the Bond with

respect to any Improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such Improvements in the Planned Construction Statement appended to the Bond. If the Master Association has given an extension in writing for the completion of any Master Association Property, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) Meeting of the Delegates. In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, the Board shall call a special meeting of the Delegates for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the Bylaws dealing with meetings of the Delegates, but in any event, such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Delegates representing five percent (5%) of the total voting power of the Master Association.

(c) Vote by Delegates. The only Delegates entitled to vote at such meeting shall be Delegates representing Members, other than Declarant and the Merchant Builders. A vote at such meeting of Delegates representing a majority of the voting power of the Master Association to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Master Association, and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Master Association.

### ARTICLE XVIII APARTMENT AREAS

#### Section I. Application of Master Association Documents to Apartment

Areas. Those portions of the Annexable Property that constitute Apartment Areas may be annexed into the Community. Except as otherwise provided in this Article, the Notice of Annexation shall automatically become effective concurrently with the first occupancy of an



Apartment in such Apartment Area, and thereafter, such Apartment Area shall be subject to the provisions of this Master Declaration and to the jurisdiction of the Master Association as provided herein. Due to the multi-family character of an Apartment Area, the provisions of this Article are intended to supplement and clarify the provisions of this Master Declaration as such provisions apply to an Apartment Area. In the event of a conflict between the provisions of this Article and any other provisions of this Master Declaration pertaining to Apartment Areas, the provisions of this Article shall control.

(a) Membership in the Master Association. At such time as the annexation of an Apartment Area into the Community becomes effective as provided above, the Merchant Builder who developed such Apartment Area shall automatically become an "Owner" and a "Member" of the Master Association as defined in Article I hereinabove and shall be entitled to all of the rights and subject to all of the obligations of an Owner and Member as set forth in the Master Association Documents.

(b) Voting Rights. Subject to the Declarant's and Merchant Builder's Class B voting rights as set forth in the Article herein entitled "The Master Association," the Owner of an Apartment Area that has been annexed into the Community shall be entitled to one (1) vote for every three (3) Apartment Area (or fraction thereof) located within such Apartment Area. (For example, the Owner of an Apartment Area consisting of fifty [50] Apartments would be entitled to seventeen [17] votes for such Apartments.) The voting rights attributable to Apartments commence concurrently with the levy of Assessments by the Master Association against the Apartments in such Apartment Area.

(c) Assessments. The Owner of an Apartment Area that has been annexed into the Community shall be obligated to pay Assessments (other than Compliance Assessments) on the basis of one (1) Assessment for every three (3) Apartments (or fraction thereof) within such Apartment Area. (For example, the Owner of an Apartment Area consisting of fifty [50] Apartments would be obligated to pay seventeen [17] Assessments for such Apartments.) Except as otherwise provided below, Assessments shall commence as to all of the Apartments in the Apartment Area upon the first occupancy of an Apartment in the Apartment Area.

Compliance Assessments may be levied by the Board on an individual Apartment basis depending upon the circumstances giving rise to the levy of such Compliance Assessment, at the discretion of the Board.

(d) Annexation of an Apartment Area in Phases. Although a Merchant

Builder who developed an Apartment Area may annex the entire Apartment Area into the Community by recording a Notice of Annexation on the entire Apartment Area, the Assessments and voting rights attributable to the Apartments within such Apartment Area may commence in phases. If so indicated in the Notice of Annexation recorded on an Apartment Area, the Owner's obligation to pay Assessments and right to vote shall commence on an Apartment Building by Apartment Building basis and shall commence as to each Apartment Building on the first day of the month immediately following the satisfaction of both of the following conditions: (i) construction of the Apartment Building is substantially complete and one or more Apartments within such Building has been approved by the City for occupancy, and (ii) a tenant or lessee has taken occupancy of an approved Apartment in such Building.

(e) Delegate District. Each Apartment Area shall constitute a separate

Delegate District; however, Declarant may, at its discretion, combine Apartment Areas owned by the same Owner into one or more Delegate Districts. The Owner of such Apartment Area may appoint the Delegate and Alternate Delegate to represent such Owner and cast the votes attributable to the Apartments in such Apartment Area. (f) Rental Operations. Notwithstanding any other provisions in the Master Association Documents to the contrary, the Owner of an Apartment Area may maintain and operate a rental or leasing office, model complex and may place reasonable signs and banners on such Apartment Area advertising Apartments for rent or lease.

(g) Delegation of Use. Subject to the provisions of the Master

Association Documents, the Owner of an Apartment Area may delegate its rights of use and enjoyment in and to the Master Association Property to its tenants and lessees during the term of their tenancy, and such tenants and lessees may further delegate

their rights of use and enjoyment to the members of their respective families and their guests and invitees during the term of their tenancy.

(h) Apartment Area Rules and Regulations. The Owner of an Apartment Area may establish additional rules and regulations that are applicable only to the residents of the Apartments. Such additional rules and regulations may address, among other things, the parking of vehicles within the Apartment Area, the storage and pick-up of trash, the keeping of animals in an Apartment, the use of any recreational amenities within the Apartment Area, and the prevention of noise and other disturbances. Such rules and regulations may supplement and/or create more restrictive provisions than the provisions of the Master Association Documents, but in no event shall such rules and regulations contravene the provisions of the Master Association Documents such that the rules and regulations applicable to the residents in the Apartment Area would be less restrictive than the provisions of the Master Association Documents. In the event of a conflict between any such rules and regulations and the Master Association Documents, the Master Association Documents shall control.

(i) Design Review. The Merchant Builder of an Apartment Area shall be exempt from all of the provisions set forth in the Article herein entitled "Design Review" as to the original design, development and construction of the Apartment Buildings and related improvements to such Apartment Area. At such time as at least one (1) Apartment in each Apartment Building within such Apartment Area has been occupied, any external improvements to such Apartment Area which would be visible outside such Apartment Area (e.g., exterior structural modifications to an Apartment Building, changes in the roof material of an Apartment Building, changes in the exterior color scheme of an Apartment Building, etc.) shall be subject to the prior approval of the Design Review Committee in accordance with the provisions of the Article herein entitled "Design Review."

(j) Use of Amenities in an Apartment Area. Any recreational amenities located within an Apartment Area shall be available for use solely by the residents of the Apartment Area and their guests and invitees subject to the rules and regulations established by the Owner of the Apartment Area and shall not be

available for use by other Owners and residents within the overall Woodbury Community.

## ARTICLE XIX

### GENERAL PROVISIONS

#### Section 1. General Rights of Enforcement.

(a) Enforcement of Protective Covenants. The Declarant, each Merchant Builder, the Master Association, each Sub-Association and/or Owner of a Lot or Condominium in the Community shall have the right to enforce, by proceedings at law or in equity, all of the Protective Covenants now or hereafter imposed by this Master Declaration and the provisions of the other Master Association Documents, including, without limitation, the right to prosecute a proceeding, at law or in equity, against the person or persons who have violated, or are attempting to violate, any of said Protective Covenants and/or provisions, to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) Nuisance. The result of every act or omission whereby any of the Protective Covenants contained in this Master Declaration or the provisions of the Master Association Documents are violated, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance shall be applicable against every such result and may be exercised by Declarant, any Merchant Builder, any Owner, the Master Association, any Sub-Association and their respective successors in interest.

(c) Cumulative Remedies. The remedies herein provided for breach of the Protective Covenants contained in this Master Declaration or the provisions of the Master Association Documents shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) Waiver. The failure of Declarant, any Merchant Builder, the Master Association, any Sub-Association and/or any Owner to enforce any of the Protective Covenants contained in this Master Declaration or the provisions of the Master Association Documents shall not constitute a waiver of the right to enforce the same thereafter.

(e) Non-impairment of Mortgages. A breach of the Protective Covenants contained in this Master Declaration or of the provisions of the Master Association Documents shall not affect or impair the lien or charge of any bona fide Mortgage made in good faith and for value on any portion of the Community (including, but not limited to, any Lot or Condominium); provided, however, that any subsequent Owner of such property shall be bound by said Protective Covenants, whether or not such Owner's title was acquired by foreclosure, a trustee's sale or otherwise.

(f) Discipline: Non-Payment of Assessments. The Board, for and on behalf of the Master Association, may, after Notice and Hearing, assess monetary penalties against an Owner as a Compliance Assessment and/or temporarily suspend the voting rights attributable to the Owner's Lot or Condominium for the common recreational amenities located on the Master Association Property for the period during which any Assessment against said Owner's Lot or Condominium remains unpaid.

(g) Discipline: Violation of Master Association Documents. The Board, for and on behalf of the Master Association, may, after Notice and Hearing, assess monetary penalties against an Owner as a Compliance Assessment, temporarily suspend the voting rights attributable to the Owner's Lot or Condominium, and/or and temporarily suspend the Owner's right to use the common recreational amenities located on the Master Association Property, for a period not to exceed thirty (30) days for any violation of the Master Association Documents by such Owner or by any person to whom such Owner has delegated his rights to use the Master Association Property as provided herein.

(h) Rights of Public Agencies. In addition to the above general rights of enforcement, the Public Agencies shall have the right, through their agents and employees, to enter upon any part of the Community for the purpose of enforcing the California Vehicle Code and their local ordinances, and are hereby granted an easement over the Community for that purpose.

Section 2. Enforcement by Third Party Beneficiaries.

(a) Enforcement by the City. The City is hereby designated as an intended third party beneficiary of this Master Declaration and shall have the right, but not the obligation, to enforce those provisions of this Master Declaration which were imposed by the City as a condition of approval for the development of any portion of the Community, (including, but not limited to, building and zoning codes). If, in its sole discretion, the City shall deem it necessary to take legal action to enforce such provisions against the Master Association, a Sub-Association or any Owner or other resident, and shall prevail in such action, the City shall be entitled to recover the full cost of said action, including its reasonable attorneys' fees.

(b) Enforcement by the Regional Water Quality Control Board. The Regional Water Quality Control Board ("RWQCB") is hereby designated as an intended third party beneficiary for the purpose of monitoring compliance by the Master Association, a Sub-Association and the Owners and other residents within the Community with the Best Management Practices, and for the purpose of enforcing compliance with the Best Management Practices. The RWQCB shall have the right, but not the obligation, to monitor compliance by the Master Association, a Sub-Association and the Owners and other residents in the Community with the Best Management Practices, and to enforce compliance therewith. If, in its sole discretion, the RWQCB shall deem it necessary to take legal action to enforce such compliance, and shall prevail in such action, the RWQCB shall be entitled to recover the full cost of said action, including its reasonable attorneys' fees.

Section 3. Owner's Indemnification Obligation After the Close of Escrow.

Each Owner of a Lot or Condominium in the Community shall indemnify, defend with counsel approved by Declarant and hold harmless Declarant, its parent company and their subsidiaries, divisions and related entities, the Master Association, each Merchant Builder, and all of their respective employees, officers, directors, shareholders, agents, representatives and professional consultants and all of their respective successors and assigns (collectively the "Indemnitees") from and against any and all damages, injuries, accidents and other casualties, claims, losses, liabilities, costs and expenses (including actual attorneys' fees) of any kind or character, whether incurred, directly or indirectly, by such Owner, any member of such Owner's family, or such

Owner's employees, agents, independent contractors or invitees (collectively the "Owner's Representatives"), by any of the Indemnitees, or by any third party, arising from or in any way related to any work, act, activity or other event on such Owner's Lot or Condominium, or by such Owner or any of such Owner's Representatives, which (i) is in breach or violation of any present or future federal, state or local laws (whether under common law, statute, rule, regulation or otherwise), permits, orders or any other requirements of governmental authorities relating to the environment or the protection of the environment (collectively the "Environmental Laws"), (ii) results or is likely to result in the violation or breach of any such Environmental Law on or affecting any portion of the Community or Annexable Property owned by Declarant or any portion of the Master Association Property owned by the Master Association (e.g., discharge of any hazardous material into any drainage device), or (iii) is in breach or violation of any provision of the Master Association Documents relating to the Best Management Practices or hazardous materials. Payment shall not be a condition precedent to the enforcement of the provisions of this Section.

Section 4. Severability. Invalidation of any one of the Protective Covenants by judgment or court order shall in no way affect any other Protective Covenant herein, which shall remain in full force and effect.

Section 5. Term. The Protective Covenants set forth in this Master Declaration shall run with the Community, and shall be binding upon and inure to the benefit of Declarant, each Merchant Builder, the Master Association, each Sub-Association and all Owners of any land subject to this Master Declaration, their respective legal representatives, heirs, successors, assigns and grantees, for a term of sixty (60) years from the date this Master Declaration is recorded, after which time said Protective Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument meeting the requirements for amendment to this Master Declaration, as set forth in Section 7 below, has been signed and recorded within one (1) year prior to the termination of the initial sixty (60) year term or within one (1) year prior to the termination of any successive ten (10) year period.

Section 6. Construction. The provisions of this Master Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and maintenance of the Community. The Article and Section headings have been inserted for

convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 7. Singular Includes Plural. Whenever the context of this Master Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 8. Amendments.

(a) Amendments by Declarant.

(1) Prior to the First Close of Escrow Prior to the first Close of Escrow for the sale of a Lot or Condominium in this first Phase of the Community, this Master Declaration may be amended, restated and/or revoked by an appropriate instrument executed solely by Declarant (and Lennar as the Owner of the Property) and recorded in the Official Records of Orange County, California.

(2) After the First Close of Escrow. After the first Close of Escrow for the sale of a Lot or Condominium in this first Phase of the Community, Declarant may unilaterally amend this Master Declaration by recording in the Official Records of Orange County, California, an appropriate instrument executed solely by Declarant so long as such amendment is solely for any of the following purposes: (i) to conform this Master Declaration to applicable law; (ii) to conform this Master Declaration to any requirements of the DRE, FNMA, FHLMC and/or GNMA, or to any condition of approval for the development of the Community imposed by a Public Agency; (iii) to correct typographical errors; (iv) to correct an error in any Exhibit or to cause an Exhibit to conform to as-built conditions; and/or (v) to place of public record a copy of the final Woodbury Master Maintenance Exhibit.

(b) Amendments by the Board. After the first Close of Escrow for the sale of a Condominium in this first Phase of the Community, the Board may amend this Master Declaration by recording in the Official Records of Orange County, California, an appropriate instrument executed by two (2) officers of the Master Association if such amendment is solely for any of the following purposes: (i) to conform this Master Declaration to applicable law; (ii) to conform this Master



Declaration to any requirements of the DRE, FNMA, FHLMC and/or GNMA; (iii) to correct typographical errors; (iv) to correct an error in any Exhibit or to cause an Exhibit to conform to as-built conditions; and/or (v) to place of public record a copy of the final Woodbury Master Maintenance Exhibit.

(c) Amendments by the Master Association.

(1) Material Amendments. Subject to the provisions of subsections (a)(2) and (b) above, after the first Close of an Escrow for the sale of a Lot or Condominium in this first Phase of the Community, any revocation or "material" amendment of the Master Declaration (i.e., an amendment which pertains to any of the topics enumerated in the Article herein entitled "Mortgagee Protection," but which is not required solely to comply with any regulation or requirement imposed by the DRE, FNMA, FHLMC and/or GNMA), may only be adopted in accordance with the voting procedures for material amendments set forth in the Article herein entitled "Mortgagee Protection."

(2) Non-Material Amendments. Subject to the provisions of subsections (a)(2) and (b) above, after the first Close of Escrow for the sale of a Lot or Condominium in this first Phase of the Community, any non-material amendment (i.e., an amendment which does not pertain to any of the topics enumerated in the Article herein entitled "Mortgagee Protection") shall be adopted if, at a meeting of the Delegates at which a quorum was established (or by action of the Delegates without a meeting), such amendment is approved by Delegates casting affirmative votes representing at least sixty-seven percent (67%) of both classes of the Membership. At such time when the Class B Membership shall cease and be converted to Class A Membership all non-material amendments shall be adopted if, at a meeting of the Delegates at which a quorum was established (or by action of the Delegates without a meeting), such amendment is approved by Delegates casting affirmative votes representing at least sixty-seven percent (67%) of the total voting power of the Master Association and by Delegates representing at least sixty-seven percent of the Members (other than Declarant and the Merchant Builders).

In all cases, the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under said provision. Any Owner or the Master Association may petition the Superior Court of Orange County for an order reducing the necessary percentage required under this Section to amend the Master Association Documents. The procedure for effecting this petition is set forth in Section 1356 of the California Civil Code, as the same may be amended from time to time.

Notwithstanding the provisions of this subsection (c), so long as Declarant and/or any Merchant Builder owns any portion of the Community and/or the Annexable Property, the provisions of this Master Declaration regarding the rights and/or easements in favor of Declarant and/or the Merchant Builders may not be amended without the prior written consent of Declarant.

(d) Approval of Mortgages. In addition to the rights of first Mortgages to approve a material amendment as enumerated in the Article herein entitled "Mortgage Protection," in the event the Master Association is considering termination of the legal status of the Community for reasons other than the substantial destruction or condemnation of the Community, then sixty-seven percent (67%) of the first Mortgages must consent to said termination. Notwithstanding the foregoing, in the event any first Mortgagee receives a written request, delivered by certified or registered mail, with return receipt requested, from the Board to approve any amendment to this Master Declaration, and such first Mortgagee does not deliver a negative response in writing to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved such proposed amendment and shall be bound thereby.

(e) Approval of a Public Agency. No amendment to this Master Declaration that would revoke or amend any condition of approval or other requirement imposed by a Public Agency in connection with the development of the Community shall be effective without the prior written consent of such Public Agency.

(f) Recordation of Amendments. An amendment made in accordance with the provisions set forth hereinabove shall be effective when executed by the

President and Secretary of the Master Association, who shall certify that the amendment has been approved by the Delegates as provided herein, by the first Mortgagees in the percentages set forth hereinabove, when applicable, and by a Public Agency, when applicable, and recorded in the Office of the County Recorder for Orange County. Upon such recordation, the amendment shall be effective and binding upon all Owners and all Mortgagees, regardless of whether such Owner or such Mortgagee consented to such amendment.

Section 9. Distribution of Documents. All documents required to be delivered to Members by the Master Association shall be delivered in accordance with the provisions of Section 1350.7 of the California Civil Code, which permits delivery to Members by various methods, including, without limitation, the following: (i) personal delivery; (ii) first-class mail, postage prepaid, addressed to the Member at the address last shown on the books of the Master Association or as otherwise provided by the Member (delivery deemed complete on deposit in the mail); (iii) e-mail, facsimile or other electronic means, if the Member has agreed to that method of delivery (delivery deemed complete at time of transmission); or (iv) any other method of delivery that the Member has agreed to. In all cases, a document may be included in or delivered with a billing statement, newsletter or other document that is delivered in accordance with Section 1350.7

Section 10. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by registered or certified mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Master Association for the purpose of service of such notice, or to the Lot or Condominium of such person if no address has been given to the Master Association. If such notice is not sent by registered or certified mail, it shall be deemed to have been delivered when received. Such address may be changed, from time to time, by notice in writing to the Master Association.

Section 11. Attorneys' Fees. If any Owner defaults in paying any Assessment or in the performance or observance of any provision of the Master Association Documents, and the Master Association has engaged the services of an attorney in connection therewith, the Owner shall pay upon demand all costs and fees incurred by the Master

Association, including reasonable attorneys' fees, regardless of whether legal proceedings are instituted. In the event the Master Association commences an action against such defaulting Owner, the prevailing party shall be entitled to recover the cost of the suit, in addition to the aforesaid costs and fees.

Section 12. Conflicts in Master Association Documents. In the event of any conflict between and/or among the provisions of any of the Master Association Documents for the Community, this Master Declaration shall be deemed to supersede the provisions of any conflicting Master Associate Documents, including, without limitation, the Articles, the Bylaws, and Design Guidelines. Additionally, in the event of any conflict between or among the provisions of the Master Association Documents and the provisions of any Sub-Association Documents, the Master Association Documents shall control.

Section 13. Exhibits. All Exhibits attached hereto (or to a Notice of Annexation recorded for a subsequent Phase of the Community) are hereby incorporated herein (or therein, as the case may be) by this reference. All dimensions set forth on an Exhibit (including any exhibits and/or depictions on file with the property manager for the Community) are approximations only and are intended for illustrative purposes only. In the event of a conflict between any Exhibit or other depiction and the actual as-built condition, the as-built condition shall control.

Section 14. Additional Provisions. Notwithstanding the provisions set forth in this Master Declaration, various laws (including, but not limited to, the Davis-Stirling Common Interest Development Act, Section 1350 et seq. of the California Civil Code, and the Federal Fair Housing Act, Title 42 United States Code Section 3601 et seq., as such laws may be amended from time to time), may supplement or override the provisions of this Master Declaration. This Master Declaration shall be interpreted and construed to be consistent with such applicable laws, as same may be amended from time to time, and accordingly, neither Declarant nor any Merchant Builder makes any representations or warranties regarding the future enforceability of the provisions of this Master Declaration.

IN WITNESS WHEREOF, Declarant has executed this Master Declaration on the day and year first written above.

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company

"DECLARANT"

BY: [Signature]  
GARY H. LAGUE  
Vice President

Its:

BY: [Signature]  
Michele R. Leondis  
Assistant Secretary

Its:

STATE OF CALIFORNIA

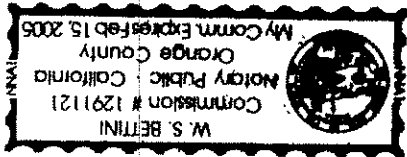
) ss.

COUNTY OF ORANGE

On August 27, 2004, before me, W.S. Bettini,  
the undersigned, a Notary Public in and for said State, personally appeared  
Gary H. Lague and Michele R. Leondis, personally known to me  
(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public



(SEAL)

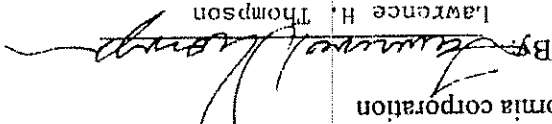
**CONSENT OF MERCHANT BUILDER**

The undersigned Merchant Builder hereby consents to the recordation of this "Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Woodbury" (the "Master Declaration") on that certain real property owned by the undersigned which is more particularly described on Exhibit "A" to the Master Declaration, and agrees that the Protective Covenants set forth in the Master Declaration shall run with said real property, and shall be binding upon the undersigned and its successors, assigns and grantees.

Dated: August 27, 2004

"MERCHANT BUILDER"

LENNAR HOMES OF CALIFORNIA, INC.,  
a California corporation

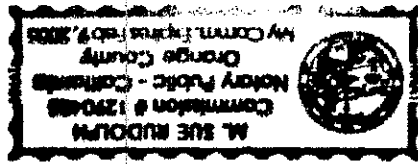
By:   
Lawrence H. Thompson

Its: Vice President

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

NOTARY: M. SUE RUDOLPH  
TELEPHONE #: 949/349-8205  
COMMISSION #: 1290486  
COUNTY: ORANGE COUNTY  
COMM. EXPIRES: FEB. 9, 2005

(SEAL)



Signature of Notary Public

*M. Sue Rudolph*

WITNESS my hand and official seal.

On August 27, 2004, before me, M. Sue Rudolph, personally appeared Lawrence H. Thompson and \_\_\_\_\_, known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

STATE OF CALIFORNIA )  
) ss. )  
COUNTY OF ORANGE )

CONSENT OF LIENHOLDER AND  
SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deed of Trust recorded on July 1, 2004 as Instrument No. 2004000603714 in the Official Records of Orange County, California, agrees that the lien of the Deed of Trust shall be junior and subordinate and subject to the attached Notice of Annexation to Woodbury as to the real property described therein.

DATED: August 27, 2004

"LIENHOLDER"  
IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

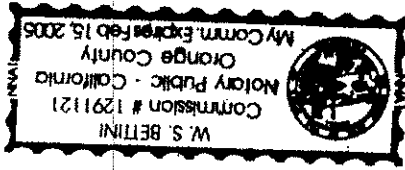
By: [Signature]  
His: GARY H/LRQUE  
Vice President

By: [Signature]  
His: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
ss. )  
)

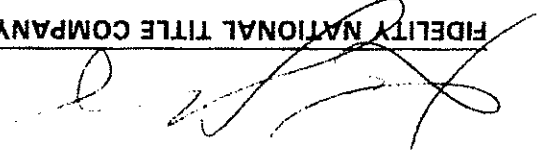
On August 27 2004, before me, W.S. Bettini, the undersigned, a Notary Public in and for said State, personally appeared Gary H. Lrque and Michele R. Leondis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/het/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
[Signature]  
Signature of Notary Public



(SEAL)



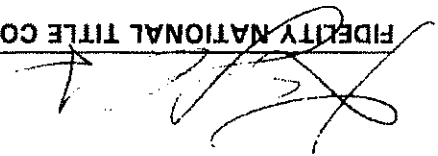
FIDELITY NATIONAL TITLE COMPANY  


Place of execution - Newport Beach Date - August 31, 2004

Manufacturer/Vendor No.: N N A 1  
Commission No.: 1290486  
County where bond is filed: ORANGE COUNTY  
Date Commission Expires: FEB 9, 2005  
Name of Notary: M. SUE RUDOLPH

I certify under the penalty of perjury that the notary seal on this document read as follows:

Government Code 27361.7

FIDELITY NATIONAL TITLE COMPANY  


Place of execution - Newport Beach Date - August 31, 2004

Manufacturer/Vendor No.: N N A 1  
Commission No.: 1291121  
County where bond is filed: ORANGE COUNTY  
Date Commission Expires: FEB 15, 2005  
Name of Notary: W. S. BETTINI

I certify under the penalty of perjury that the notary seal on this document read as follows:

Government Code 27361.7

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE PROPERTY**

The Property shall mean and refer to that certain real property located in the City of Irvine, the County of Orange, State of California, more particularly described as follows:

Lots 126 through 136, inclusive, and Lots 168 through 170, inclusive, of Tract 16495 as shown on a map recorded in Book 856, Pages 10 through 29, inclusive, of Miscellaneous Maps in the office of the County Recorder for Orange County, California.

**EXHIBIT "B"**

**LEGAL DESCRIPTION OF THE ANNEXABLE PROPERTY**

The Annexable Property shall mean and refer to all of that certain real property located in the City of Irvine, County of Orange, State of California, more particularly described as follows:

All of the real property shown and described on the map of Tract 16495 recorded in the Book 856, Pages 10 through 29, inclusive, of Miscellaneous Maps in the office of the County Recorder for said County;

All of the real property shown and described on the map of Tract 16577 recorded in the Book 857, Pages 26 through 43, inclusive, of Miscellaneous Maps in the office of the County Recorder for said County;

All of that certain real property shown and described on a map of Tract 16755 on file with the City of Irvine;

and

All of the real property shown and described on Tentative Tract 16339 on file with the City of Irvine.

All of the Annexable Property is generally shown and depicted on *page 2* of this Exhibit "B";

Bold perimeter line depicts boundary of Annexable Property

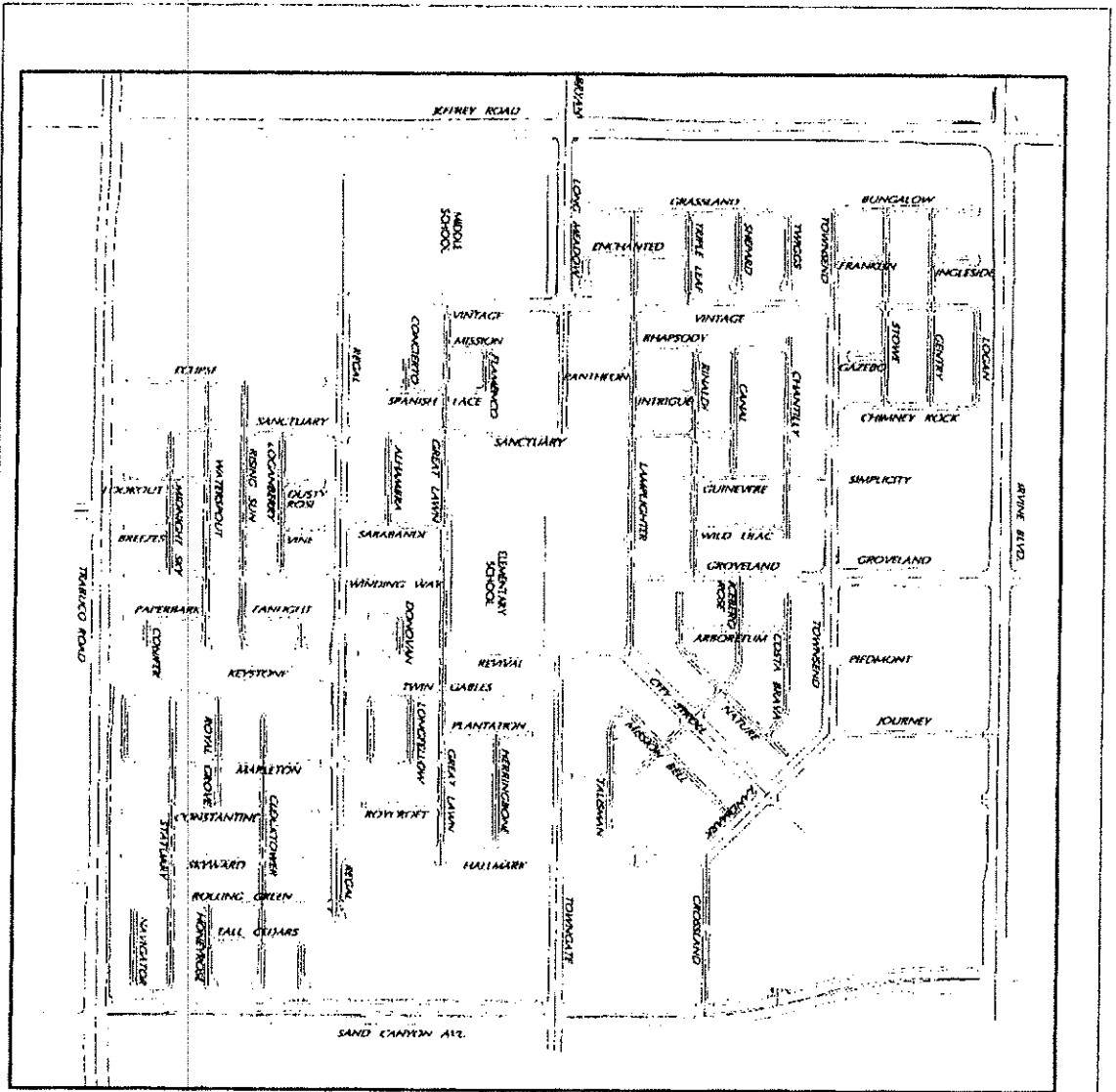


EXHIBIT 98<sup>th</sup>  
ANNEXABLE PROPERTY  
AUGUST 2004

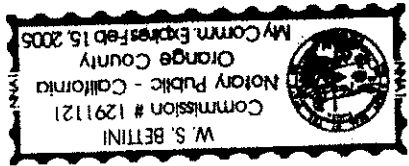
Map 0001-2381 07/04/04 11:00 AM

**EXHIBIT "MAP"**

**LEGAL DESCRIPTION AND/OR DEPICTION OF THE MASTER ASSOCIATION  
PROPERTY IN THIS FIRST PHASE OF THE COMMUNITY**

The Master Association Property included in this first Phase of the Community shall mean and refer to that certain real property located in the City of Irvine, County of Orange, State of California, more particularly described as follows:

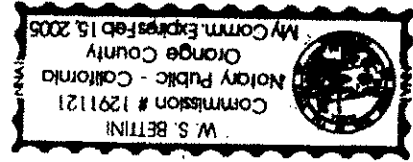
Lot 185 of Tract 16495 as shown on a map recorded in Book 856,  
Pages 10 through 29, inclusive, of Miscellaneous Maps in the office  
of the County Recorder for Orange County, California.



*W. S. Bettini*

WITNESS my hand and official seal.

State of California)  
) ss.  
County of Orange )  
On September 8, 2004 before me, W. S. Bettini, Notary Public,  
personally appeared Gary H. Luque and Michele R. Leondis  
personally known to me to be the persons whose names are subscribed to the within  
instrument and acknowledged to me that they executed the same in their authorized  
capacities, and that by their signatures on the instrument the persons, or the entity upon  
behalf of which the persons acted, executed the instrument.



*W. S. Bettini*

WITNESS my hand and official seal.

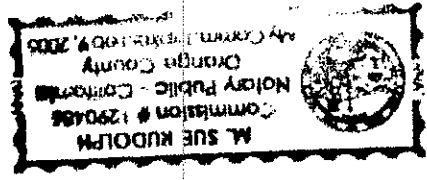
State of California)  
) ss.  
County of Orange )  
On September 8, 2004 before me, W. S. Bettini, Notary Public,  
personally appeared Gary H. Luque and Michele R. Leonidis,  
personally known to me to be the persons whose names are subscribed to the within  
instrument and acknowledged to me that they executed the same in their authorized  
capacities, and that by their signatures on the instrument the persons, or the entity upon  
behalf of which the persons acted, executed the instrument.

On September 8, 2004, before me, M. Sue Rudolph personally appeared Lawrence H. Thompson, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
SS.

WITNESS my hand and official seal.

M. Sue Rudolph  
Notary Public in and for said State



NOTARY: M. SUE RUDOLPH  
TELEPHONE #: 949/349-8205  
COMMISSION #: 1290486  
COUNTY: ORANGE COUNTY  
COMM. EXPIRES: FEB. 9, 2005